

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 62

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 A has been amended to change the 3-FI reference to FPAC NRRS Guide.

Subparagraph 4 D has been added to include the acceleration exception authority delegated to SED.

Paragraph 10 has been added to include processing incomplete loan servicing applications instructions.

Subparagraphs 44 B, 53 B, 194 A, 497 C, and 517 B have been added to provide incomplete application processing instructions.

Subparagraphs 47 A, 57 A, 84 D, 129 G, 195 H, 284 H, 499 D, and 519 D have been amended to provide guidance on preparing FLP appeal letters.

Subparagraph 67 A has been amended to add FSA-2001 PLSA Primary Loan Servicing Application Package availability.

Subparagraph 67 B has been amended to update the DLS-SS flowcharts and SharePoint training location.

Subparagraph 81 A has been amended to remove the future CFR update note.

Subparagraph 248 B has been amended to clarify the servicing office role in processing a DLS deferral transaction.

Subparagraph 249 E has been amended to clarify that additional security listed on FSA-2543 is subject to recapture.

Subparagraph 250 A has been amended to add a reference to 4-FLP, subparagraph 67 C, for FSA PAD and restructured debt policy.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 322 C has been amended to change the 64-FI reference to FPAC NRRS Guide.

Subparagraph 401 A has been amended to update the overview on FSA actions when borrower files for bankruptcy.

Subparagraph 401 B has been amended to revise the disclaimer included in correspondence sent to borrowers in bankruptcy.

Subparagraph 401 C has been amended to update flagging the account instructions.

Subparagraph 401 D has been amended to update removal from offset instructions.

Subparagraph 402 F has been amended to update Chapter 7 servicing requirements.

Subparagraph 403 A has been amended to update supporting documentation requirements when filing a Proof of Claim.

Subparagraph 403 B has been amended to remove prior lien holder and real estate tax outstanding references for Proof of Claim documentation.

Subparagraph 404 A has been amended to update the agency official's review requirements.

Subparagraph 404 B has been amended to clarify subsequent loans to borrowers in bankruptcy.

Subparagraph 404 C has been amended update FSA actions after court confirms plan.

Subparagraph 404 D has been amended to provide instructions on applying payments according to a confirmed bankruptcy plan.

Subparagraph 405 A has been amended to provide additional resources for reviewing payments applied to the borrowers' account through trustee reports.

Subparagraph 405 D has been added to provide instructions on returning the borrower's account to pre-petition terms when a bankruptcy has been dismissed after a confirmed plan.

Subparagraph 406 E has been added to provide instructions on responding to a Notice of Final Cure Payment in Chapter 13 Bankruptcy.

Subparagraph 407 A has been amended to update automatic stay requirements.

Subparagraph 407 B has been amended to update instructions for Chapter 7 cases after discharge.

Subparagraph 410 A has been added to provide instructions for restructuring borrower accounts according to the terms of a confirmed plan.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 499 F has been amended to add a reference for rejection letter guidance.

Subparagraphs 534 C and 537 A have been amended to provide SED approval authority on a case-by-case basis.

Subparagraph 567 A has been amended to replace servicing office with State Office.

Subparagraph 601 B has been amended to clarify that a TPF flag must be processed.

Exhibit 11 has been amended to update instructions for establishing and removing flags.

Exhibit 17 has been amended to update the borrower data chart.

Exhibit 33 has been added to provide a sample Certificate of Indebtedness.

Exhibit 58 B has been amended to provide steps for making a judicial foreclosure referral.

Exhibit 60 has been amended to update the worksheet for determining farm loan programs maximum bid on real estate property.

Exhibit 70 has been amended to change “chattel” to “personal property.”

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A Reasons for Amendment (Continued)

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| 5-8 | 1-7 through 1-10 | page 7 (add) |
| 11 | 2-3, 2-4 | 11, page 1 |
| | 2-9, 2-10 | page 2 (add) |
| | 2-15, 2-16 | 17, pages 3-6 |
| | 2-21, 2-22 | 33, page 1 (add) |
| | 3-3, 3-4 | 58, page 1 |
| | 3-4.5, 3-4.6 | pages 2-7 (add) |
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| | 3-37, 3-38 | 70, page 1 |
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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding the following:

- regulations governing:
 - direct loan servicing – special
 - inventory property management
- roles and responsibilities in implementing those regulations and other responsibilities in direct loan servicing – special and inventory property management.

B Sources of Authority

The sources of authority for this handbook include the following:

* * *

- 7 CFR Part 766 for servicing borrowers who are financially distressed or delinquent
- 7 CFR Part 767 for managing, leasing, and selling inventory property
- various laws and statutes passed by Congress, including CONACT * * *.

C Regulation References

Text in this handbook that is published in the CFR is printed in **bold** text. The CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement in the CFR
- may be used to support adverse FSA decisions.

Note: Cross-references printed in bold are citing a CFR section. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found in is printed in nonbold text in parenthesis (within the bold text).

Example: Subparagraph 103 C provides “[7 CFR 766.105(b)] **(1) The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4) (subparagraph B) of this section.**”

Note: The text “**paragraphs (a)(2) through (4) of this section**” refers to 7 CFR 766.105 (a)(2) through (4). The nonbold reference indicates that 7 CFR 766.105(a) is included in subparagraph 103 B.

2 Related References

A Related FSA Handbooks

The following FSA handbooks concern FLP.

| IF the area of concern is about... | THEN see... |
|--|------------------------------|
| appeals and mediation | 1-APP. |
| civil rights compliance and administration for FSA programs | 18-AO. |
| common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX | 1-CM. |
| debt collection and resolution | 7-FLP. |
| direct loan making | 3-FLP. |
| direct loan regular or routine servicing | 4-FLP. |
| disaster designations | 1-DIS. |
| employee development and training | 6-PM. |
| environmental risk management | 2-EQ. |
| general and administrative regulations governing FLP, and implementing NAD final determinations | 1-FLP. |
| guaranteed loan making and servicing | 2-FLP. |
| the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, Land Contract Guarantee Program, and servicing of minor loan programs | 6-FLP. |
| personnel management, such as employee conflict of interest | 3-PM. |
| policies and procedures for the acquisition of supplies, equipment, and services | 42-AS. |
| procedures for collecting, maintaining, or disclosing data or information about an individual | 3-INFO. |
| procedures for making records available to the public, other Federal agencies, and Congress | 2-INFO. |
| processing collections and canceling loan checks and payments | *--FPAC NRRS Guide.--* |
| State and county organization and administration policies, procedures, principles, and standards, such as work organization | 16-AO. |
| records management | 32-AS. |

B Handbook Link

The Handbook Link web site at

<http://intranet.fsa.usda.gov/dam/handbooks/handbooks.asp> provides links to useful web sites.

4 Agency Exception Authority (Continued)

B Submitting Exception Requests (Continued)

- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- discussion of graduation
- how the action is in the best financial interest of the Government
- additional information SED thinks is needed to review the case
- a Farm Business Plan credit action pertaining to the requested exception, including but not limited to:
 - updated farm assessment
 - appropriate environmental review, if needed
 - credit presentation demonstrating all other feasibility, eligibility, and security requirements are met for the request.

C Liquidation Appraisal Exception Authority Delegated to SED

See subparagraph 462 G.

*--D Acceleration Exception Authority Delegated to SED

See subparagraphs 534 C and 537 A.--*

5 Introduction to Direct Loan Servicing – Special and Inventory Property Management

A Direct Loan Servicing – Special

[7 CFR 766.1(a)] This part describes the Agency’s servicing policies for direct loan borrowers who:

- (1) Are financially distressed;**
- (2) Are delinquent in paying direct loans or otherwise in default;**
- (3) Have received unauthorized assistance;**
- (4) Have filed bankruptcy or are involved in other civil or criminal cases affecting the Agency; or**

5 Introduction to Direct Loan Servicing – Special and Inventory Property Management (Continued)

A Direct Loan Servicing – Special (Continued)

(5) Have loan security being liquidated voluntarily or involuntarily.

[7 CFR 766.1(b)] The Agency services FLP direct loans under the policies contained in this part.

(1) Youth loans:

--(i) May not receive DSA under subpart B of this part or DBSA under Subpart J of this part:--

(ii) Will only be considered for rescheduling according to § 766.107 (paragraph 131) and deferral according to § 766.109 (paragraph 159)

(2) The Agency does not service Non-program loans under this part except where noted.

[7 CFR 766.1I] The Agency requires the borrower to make every reasonable attempt to make payments and comply with loan agreements before the Agency considers special servicing.

B Inventory Property Management

[7 CFR 767.1(a)] This part describes the Agency's policies for

(1) Managing inventory property;

(2) Selling inventory property;

(3) Leasing inventory property;

(4) Managing real and chattel property the Agency takes into custody after abandonment by the borrower;

(5) Selling or leasing inventory property with important resources, or located in special hazard areas; and

(6) Conveying interest in real property for conservation purposes.

[7 CFR 767.1(b)] The Agency maintains, manages and sells inventory property as necessary to protect the Agency's financial interest.

6 ECOA Requirements for Actions Involving Real Estate Security**A Release of Real Estate Appraisals**

Equal Credit Opportunity Act (ECOA) requires the Agency to provide a copy of a written real estate appraisal or valuation performed on any real estate that is pledged as security as part of an application for FSA assistance. For servicing actions authorized by this handbook that involve FSA completing any real estate valuation, local offices will comply with the requirements of 1-FLP paragraph 148 to provide a copy of the valuation to the borrower, when applicable.

7 Non-Procurement Debarment and Suspension**A Covered Transactions**

Information will be provided once automation has been developed.

B System for Award Management (SAM) Exclusions

Information will be provided once automation has been developed.

8 (Reserved)**9 LexisNexis****A Use of Lexis Nexis**

LexisNexis provides computer-assisted legal, business, and risk management research services. Its Accurant system provides efficient search technology to locate real estate transactions and ownership data; lien, judgment, and bankruptcy records; as well as professional license information and historical addresses. This information is useful for eDALR\$ and judgements.

See 7-FLP, subparagraph 405 F for instruction on the use of LexisNexis.

--10 Processing Incomplete Loan Servicing Applications*A Determining if Application is Complete**

Except for Primary Loan Servicing under Part 3, Homestead Protection Program under Part 7, and Conservation Contracts for financially distressed borrowers, incomplete servicing applications will be processed under this paragraph.--*

--10 Processing Incomplete Loan Servicing Applications (Continued)*B Initial Notification of Incomplete Servicing Application**

Within 7 calendar days of receipt of an incomplete direct loan servicing application, the agency official will use FSA-2091 to provide the applicant with written notice of any required additional information. The applicant must provide the additional information within 30 calendar days of the date FSA-2091 is sent.

If the 30th calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

FSA-2091 will:

- list the required additional information
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are have difficulty obtaining the required information
- establish a due date for receiving the information of 30 calendar days from the date of FSA-2091 was sent.

C Final Notification of Incomplete Servicing Application

If a complete direct loan servicing application is not received within 30 calendar days of the date FSA-2091 was sent, the application will be withdrawn and the borrower notified using FSA-2092. FSA-2092 will state the reason for withdrawal and that the application is withdrawn effective the date of FSA-2092 is sent.

Note: Borrowers may voluntarily withdraw an application at any time in writing. FSA-2092 will be sent when an application is voluntarily withdrawn.

A direct loan servicing application that has been withdrawn may not be reactivated. A new direct loan servicing application may be filed, and any information that is still current from the withdrawn application may be included with the new application. Information that is less than 90 days old, unless otherwise noted, is considered current.--*

11-40 (Reserved)

43 DSA Applications

A Requests for DSA

[7 CFR 766.54(a)] (1) A borrower must submit a request for DSA in writing within eight months from the date the natural disaster was designated.

(2) All borrowers must sign the DSA request.

*** * ***

B Required Financial Information

[7 CFR 766.54(b)] (1) The borrower must submit actual production, income, and expense records for the production cycle in which the disaster occurred unless the Agency already has this information.

--(2) The borrower must provide any additional information requested by the Agency.--

The borrower must also provide any documentation required to support the farm operating plan as required in paragraph 45, such as 3 years of production, income and expense records.

Records provided by the borrower will be retained in the case file.

44 Application Tracking**A Tracking DSA Requests**

The authorized agency official must date stamp the borrower's DSA request on the date FSA received it. The application will be inputted and tracked through to completion in DLS under Security Instruments Other Workflows.

The authorized agency official **must**, at a minimum, record the following in DLS:

- purpose type
- request date
- final disposition
- final disposition date
- disaster designation code
- set-aside addendum date
- installment date
- disaster set-aside amount
- amount approved
- complete application date.

Note: Due to current limitations in DLS, the complete application date will be entered in the Special Servicing Eligibility comment box of the FBP.

***--B Incomplete Applications**

Process incomplete applications according to paragraph 10.--*

46 DSA Approval (Continued)

D Installments To Be Set-Aside

[7 CFR 766.58] (a) The Agency will set-aside the first installment due immediately after the disaster occurred.

(b) If the borrower has already paid the installment due immediately after the disaster occurred, the Agency will set aside the next annual installment.

E Interest Accrual

[7 CFR 766.59(a)] (1) Interest will accrue on any principal portion of the set-aside installment at the same rate charged on the balance of the loan.

(2) If the borrower's set-aside installment is for a loan with a limited resource rate and the Agency modifies that limited resource rate, the interest rate on the set-aside portion will be modified concurrently.

[7 CFR 766.59(b)] The amount set-aside, including interest accrued on the principal portion of the set-aside, is due on or before the final due date of the loan.

F Recording DSA

The authorized agency official will use FSA-2501 as the source document to complete the DSA SI Other workflow to create and submit the 5S – Record Disaster Set-Aside DLS transaction. RDBCSO borrower account status reports and inquiry screens will reflect the amounts set-aside for each loan. An ISA identifier will be displayed on RC 540 for loans with DSA.

47 Adverse Determinations

A Notifying Borrowers of Adverse Determinations

DSA applications that do **not** meet the DSA requirements or timeframes will be rejected.

The borrower will be notified of the adverse decisions by letter detailing which requirements

--they did not meet and providing appeal rights according 1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--

48 Canceling and Reversing DSA

A Canceling DSA

[7 CFR 766.60] The Agency will cancel a DSA if:

[7 CFR 766.60(a)] The Agency takes any primary loan servicing action on the loan;

If an account is accelerated, the DSA must be canceled as part of the acceleration action.

If FSA later restructures the borrower's loan, the authorized agency official must cancel DSA with a 5T – Cancel Disaster Set-Aside transaction when processing the restructuring through DLS Special Servicing.

[7 CFR 766.60(b)] The borrower pays the current market value buyout in accordance with § 766.113; or

[7 CFR 766.60I] The borrower pays the set-aside installment.

--If the borrower pays the set-aside installment, the office shall contact RDBCSO, FLB to-- process the DSA cancellation with a 5T – Cancel Disaster Set-Aside transaction in DLS.

B Reversing DSA

[7 CFR 766.61] If the Agency determines that the borrower received an unauthorized DSA, the Agency will reverse the DSA after all appeals are concluded.

If FSA determines that the borrower received unauthorized DSA assistance, the borrower will be notified and meetings scheduled according to Part 10.

If FSA still believes DSA was unauthorized after the meetings and once any borrower appeals have been exhausted in FSA's favor, FSA will reverse the set-aside by reinstating the borrower's original payment terms as if FSA had never granted DSA to the borrower. In reversing DSA, the authorized agency official must:

- *--notify RDBCSO, FLB in writing to reverse DSA--*
- attach this notification to FSA-2501, which should remain stapled to the promissory note or assumption agreement.

If a borrower becomes financially distressed or delinquent after FSA reverses DSA, the authorized agency official services the borrower's account according to Parts 3 and 4.

53 DBSA Application Tracking**A Tracking DBSA Requests**

The authorized agency official must date stamp the borrower's DBSA request as of the date FSA received it. The application will be entered in and tracked through completion in DLS under Security Instruments Other Workflows.

The authorized agency official **must**, at a minimum, record the following in DLS:

- purpose type
- request date
- final disposition
- final disposition date
- set-aside addendum date
- installment date
- set-aside amount
- amount approved
- complete application date.

Note: Due to current limitations in DLS, the complete application date will be entered in the Special Servicing Eligibility comment box of the FBP.

***--B Incomplete Applications**

Process incomplete applications according to paragraph 10.--*

54 DBSA Eligibility and Limitations

A Borrower Eligibility

[7 CFR 766.452(a)] The borrower must meet all of the following requirements to be eligible for DBSA:

- (1) The borrower must currently be operating the farm. Farmers who have rented out their land base for cash are not operating the farm. (see operator definition in Exhibit 2).**
- (2) The borrower must have acted in good faith, and the borrower's inability to make the current or upcoming scheduled loan payments must be for reasons not within the borrower's control.**
- (3) The borrower cannot have more than one DBSA on each loan.**
- (4) The borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency. This determination will be based on:**

(i) The borrower's actual production, income and expense records; and

(ii) Any other records required by the Agency;

***--Note:** The borrower's actual production and income and expense records must be entered into FBP to support the eligibility determination.--*

- (5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including Agency debts. The borrower must provide documentation required to support the farm operating plan.**

Note: A current balance sheet is required to develop the projection.

- (6) The borrower must not be in non-monetary default.**
- (7) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718 (1-CM).**
- (8) The borrower must not become 165 days past due before the appropriate Agency DBSA documents are executed.**

The borrowers must remain eligible until Form FSA-2501 is executed.

***--56 Payments Toward Set-Aside Installments**

A Interest Accrual

[7 CFR 766.456(a)] Interest will accrue on any principal portion of the DBSA installment at the rate of one eighth of a percent.

B Due Date

[7 CFR 766.456(b)] The DBSA amount, including interest accrued on the principal portion of the set-aside, is due on or before the final due date of the loan.

C Applying Payments

[7 CFR 766.456(c)] The Agency will apply borrower payments toward DBSA installments first to interest and then to principal

D Recording DBSA

Office will follow interim guidance until modernization of FLP systems are completed.--*

57 Adverse Determinations

A Notifying Borrowers of Adverse Determinations

DBSA applications that do **not** meet the DBSA requirements or timeframes will be rejected.

The borrower will be notified of the adverse decisions by letter detailing which requirements
*--they did not meet and providing appeal rights according 1-APP. See 1-FLP,
subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--*

66 Borrower Notification (Continued)**A General Requirements (Continued)****[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;**

For further information about compliance with loan agreements, see 4-FLP, Part 6.

The borrower's non-compliance must be determined according to paragraph 65 before being provided with Primary Loan Servicing notifications.

[7 CFR 766.101(a)] (4) Have filed bankruptcy;

When FSA learns that a borrower has filed for bankruptcy, FSA will service the borrower's account according to Part 11.

[7 CFR 766.101(a)] (5) Request this information;

The authorized agency official will record a borrower's request for a loan servicing notification package in the borrower's FBP running record or place the written request in the borrower's file.

[7 CFR 766.101(a)] (6) Request voluntary conveyance of security;

The authorized agency official will send a loan servicing notification package to a borrower requesting full liquidation by voluntary conveyance, unless the borrower was previously notified and is already being serviced according to this part.

[7 CFR 766.101(a)] (7) Have only delinquent SA; or

FSA will notify delinquent NP borrowers who have only SA amortization agreements.

[7 CFR 766.101(a)] (8) Are subject to any other collection action, except when such action is a result of failure to graduate. Borrowers who fail to graduate when required and are able to do so, will be accelerated without providing notification of loan servicing options.**67 Providing Loan Servicing Notification Package****A Forms for Notifying Borrowers**

[7 CFR 766.101(b)] The Agency will notify borrowers of the availability of primary loan servicing programs, conservation contract, current market value buyout, debt settlement programs and homestead protection as follows:

[7 CFR 766.101(b)] (1) A borrower who is financially distressed, or current and requesting servicing will be provided FSA-2512 (Appendix A to this subpart) (appendix only in CFR);

67 Providing Loan Servicing Notification Package (Continued)

A Forms for Notifying Borrowers (Continued)

Notification will be hand-delivered or sent by regular mail to borrowers who are current and requesting servicing. Notification will be sent by certified mail to borrowers requesting servicing who are delinquent, but less than 90 days past due.

[7 CFR 766.101(b)] (2) A borrower who is 90 days past due will be sent FSA-2510 (Appendix B to this subpart) (appendix only in CFR);

The authorized agency official must send FSA-2510 within 15 calendar days of the determination of the default. Notification will be sent by certified mail. The account will be flagged “PLS” (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed or the account accelerated.

--FSA-2001, PLSA Primary Loan Servicing Application Package, is available to download from the FFAS Employee Forms/Publications Online Website and includes the forms required to be sent with FSA-2510. The forms in this package may also be used when sending FSA-2514 for accounts that are also 90 days past due.--

If non-monetary default is subsequently identified, the borrower’s noncompliance must be determined and notification sent according to paragraph 65. The borrower will not be sent FSA-2514 and a new PLS packet. The non-monetary default will be addressed in the appropriate pre-acceleration notice unless it is resolved.

[7 CFR 766.101(b)] (3) A borrower who is non-monetary or both monetary and non-monetary default will receive FSA-2514 (Appendix C to this subpart) (appendix only in CFR);

If a potential non-monetary default cannot first be resolved through the steps in subparagraph 66 A, FSA-2514 will be sent by certified mail. The account will be flagged “PLS” (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed, the default resolved, or the account accelerated.

[7 CFR 766.101(b)] (4) A borrower who has only delinquent SA will be notified of available loan servicing;

The borrower will be sent FSA-2547 within 15 calendar days of the missed payment. Notification will be sent by certified mail. The borrower must submit the items specified in subparagraphs 81 C through I within 60 calendar days of the date on the notice. If a complete application has not been received within 30 calendar days FSA-2548 will be sent. Notification will be sent by certified mail.

[7 CFR 766.101(b)] (5) Notification to a borrower who files bankruptcy will be provided in accordance with subpart G (Part 11) of this part.

Note: Part 11 only addresses who would be sent notification. The appropriate form used for notification is established by this subparagraph based on the borrower’s status as current, financially distressed, 90 calendar days past due, or non-monetary default.

67 Providing Loan Servicing Notification Package (Continued)

B Using DLS Special Servicing and PLS Flag

The authorized agency official must track all notification and servicing activity through DLS Special Servicing and FSA-2580.

PLS flag will be placed only on accounts sent FSA-2510 or FSA-2514.

--To establish the PLS account flag, a transaction will be processed in DLS through the Manage Flags function under Customer Management.--

The following changes were made to the DLS-SS Flowcharts.

•*--Chart 8 transfer Boxes 5 and 8, outcome 4, have been corrected to transfer to Box 10.

State and County Offices will use the flow charts in the FLP Software User Guides section of the DAFLP SharePoint page at <https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/programbased.aspx#loan-servicing-guides-and-trainings>.--*

Section 2 Completing the Loan Servicing Application**81 Required Information****A General Application Requirements and Signatures**

[7 CFR 766.102(a)] Except as provided in paragraph (e) (subparagraph 83 A) of this section, an application for primary loan servicing, conservation contract, current market value buyout, homestead protection, or some combination of these options, must include the following to be considered complete:

FSA will consider an application complete when the borrower has completed, signed, dated, and submitted to the servicing office, the forms and reports listed in subparagraphs B through I to the extent that the borrower is responsible.

The authorized agency official will date stamp, on the date received, all material received from the borrower. Date of complete application is entered on FSA-2001.

* * *

B Application Form

[7 CFR 766.102(a)(1)] Completed Agency application form;

The borrower and, in the case of an entity, all entity members must complete FSA-2001. The authorized agency official will order personal and/or commercial credit reports immediately upon receipt of the signed FSA-2001. No credit report fee is collected for applications for servicing only.

Note: For FSA-2001 submitted without all required initials, the authorized agency official will obtain initials before closing the servicing action requested.

81 Required Information (Continued)

C Financial Records

***--[7 CFR 766.102(a)(2)] Financial records for the three most recent years, including income tax returns;**

The borrower must provide all farm and nonfarm income and expense records, including family living expenses. Financial records will be submitted through FSA-2001, FSA-2002, or other similar format. FSA does not release a borrower's income tax records--* without OGC's consent. Failure to provide income tax records is considered an incomplete application. Follow subparagraph 83 C for notification requirements. However, there are circumstances when an individual may not be required to submit income tax returns, such as certain tribal members or operations that do not meet minimum income thresholds.

D Production Records

***--[7 CFR 766.102(a)(3)] The farming operation's production records for the 3 most--* recent years or the years the borrower has been farming, whichever is less;**

Farm production records will be submitted using FSA-2003 or similar format.

E Compliance With Environmental Requirements

--[7 CFR 766.102(a)(4)] Documentation of compliance with the Agency's environmental regulations contained in part 799 of this chapter (1-EQ);--

* * *

AD-1026 and NRCS-CPA-026e, which accurately reflect the current farm operation, must be used. FSA will not require new forms unless the existing forms no longer reflect the current operation.

F Verification of Non-Farm Income

[7 CFR 766.102(a)(5)] Verification of all non-farm income;

***--Non-farm income will be verified and documentation included in the case file according--* to 3-FLP, subparagraph 42 A.**

G Farm Operating Plan

***--[7 CFR 766.102(a)(6)] A current financial statement and the operation's farm--* operating plan, including the projected cash flow budget reflecting production, income, expenses, and debt repayment plan. In the case of an entity, the entity and all entity members must provide current financial statements;**

--FBP will be prepared from FSA-2001 using the borrower's historical data.--

84 Releasing Divorced Spouses of Liability (Continued)**C Applying for Loan Servicing**

An application for loan servicing that requests release of liability of a withdrawing spouse is complete and can only be approved when:

- the withdrawing spouse submits the material and documentation required by subparagraph B within the timeframe required by subparagraph 83 A
- the remaining borrower submits all forms and documentation required in paragraph 81 within the required timeframe.

D Approval or Disapproval of Release of Liability

If a divorced spouse requests a release of liability under this paragraph, the authorized agency official will prepare and forward FSA-2080, all relevant case information, and a well-documented memo summarizing the request to SED. The authorized agency official will include a recommendation.

If SED approves the release of liability, the authorized agency official may then process the loan servicing request of remaining obligors who have submitted a complete and timely loan servicing application.

If the release cannot be approved by SED, the borrower requesting the release will be given *--appeal rights according to 1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--*

After all appeals are concluded, FSA will continue processing the loan servicing application and both borrowers must jointly execute all remaining documents.

Once the application is complete and all required information is received from both parties, processing a release of a divorced spouse does not delay or suspend the time for FSA to process the application of the remaining borrower.

85 Borrowers Do Not Respond to Loan Servicing Notification

A General Policy

[7 CFR 766.103 (a)] If a borrower who is financially distressed or current requested loan servicing and received FSA-2512, but fails to respond timely and subsequently becomes 90 days past due, the Agency will notify the borrower in accordance with § 766.101(a)(2) (subparagraph 67 A).

[7 CFR 766.103 (b)] If a borrower who is 90 days past due and received FSA-2510, or is in non-monetary, or both monetary and non-monetary default, and received FSA-2514 and fails to timely respond or does not submit a complete application within the 60-day timeframe, the Agency will notify the borrower by certified mail of the following:

- (1) The Agency's intent to accelerate the loan; and**
- (2) The borrower's right to request reconsideration, mediation and appeal in accordance with 7 CFR parts 11 and 780.**

B Intent to Accelerate

The authorized agency official must send FSA-2525 and FSA-2526 to a 90-calendar-day past ~~due~~ borrower or a borrower in non-monetary default who fails to apply for loan servicing within 60 calendar days of borrower receipt of the loan servicing package. If the borrower is an entity or is comprised of 2 or more individuals, the same borrowers that received the original notice will be notified.

Note: If a non-monetary default is determined after FSA-2510 is issued, FSA-2525 will address both the monetary and non-monetary defaults. The reasons for the ~~the~~ ^{*} non-monetary default determination will be detailed on the FSA-2525.

129 Extending Maturity Date for Direct Loans with Balloon Payments (Continued)**B Notification Requirements**

The County Office will monitor all term loans with balloon payments for the final installment due date to ensure that the borrower is notified they could extend the maturity date if qualified.

County and State Offices will ensure that 4-FLP Exhibit 25.3 is sent to the borrower according to 4-FLP, subparagraph 64 C.

C Approval Actions

The authorized agency official will prepare a credit presentation in FBP to document the borrower's eligibility to continue payments as scheduled. Approval of the extension will be recorded in the FBP.

D Special Servicing Actions

DLS Special Servicing activity will be initiated utilizing Chart 23 "Extending Maturity Date for Term Loans with Balloon Payments".

E Transaction Code

Transaction code 4L will be used by the RD Business Center to record the new installment due date on each applicable loan. State Office coordinators will send completed FSA-2446 to the RD Business Center. See 1-FLP, subparagraph 5 B. After the transaction has completed successfully, the RD Business Center will notify the applicable State Office that the transaction was completed.

F Tracking Notes with Balloon Installments

DLS LS Custom OM Reminders will be used to track and monitor any accounts that have loans with a balloon payment due at maturity. Refer to Section 7.5 Reminders, of the DLS User's Guide for detailed directions on creating custom reminders.

G Appeals Rights

If a request under this section cannot be approved, the borrower will be notified of all appeal rights according to 1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--*

130 (Reserved)

193 Amount of Debt Canceled by Conservation Contract (Continued)**C Debt Forgiveness**

The debt reduced through FSA-2535 is not considered debt forgiveness under CONACT.

194 Processing Conservation Contract Request**A Applying for Conservation Contract**

All requests for conservation contracts must be tracked using DLS Special Servicing.

A borrower who is delinquent, financially distressed, or in non-monetary default and is interested in receiving loan servicing, including a conservation contract, must submit:

- a loan servicing application package according to paragraphs 81 and 82
- an aerial photo or map of the borrower's land that delineates the proposed conservation area according to subparagraph 82 B.

A current borrower who is not financially distressed may request a conservation contract by submitting:

- FSA-2061

Note: See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.

- actual financial performance for the past year (last year's tax return or last year's income and expense records are acceptable).
- current balance sheet (or FSA-2037)
- projected income/expense for planning year (or FSA-2038)
- annual crop and livestock production yields
- an aerial photo or map that delineates the proposed conservation area according to subparagraph 82 B.

--Process incomplete applications for current borrowers according to paragraph 10.--

194 Processing Conservation Contract Request (Continued)

B Processing a Delinquent or Financially Distressed Borrower's Request

If the borrower is eligible for loan servicing, the authorized agency official uses eDALR\$ to determine which loan servicing program or combination of programs may enable the borrower to develop a feasible plan.

When using eDALR\$ to process a loan servicing application that includes a request for a conservation contract, the authorized agency official shall input into eDALR\$ the contract term and conservation acreage.

- The authorized agency official should determine the financial effect of the different contract lengths by running the 3 contract term scenarios on eDALR\$ or the Conservation Contract Estimator Tool, such as 10-, 30-, and 50-year contract terms. By varying the contract term and holding all other input parameters constant, the authorized agency official and borrower may compare the magnitude of debt cancellation across contract terms.
- The authorized agency official also should vary the conservation acreage to determine the effect of changing the size of the proposed conservation contract area. The authorized agency official extrapolates the size of the proposed conservation area from the area marked on the borrower's aerial photo or map. For each contract term that enables a borrower to develop a feasible plan, the authorized agency official should record the minimum conservation acreage that is needed to create a feasible plan.

Example: A delinquent borrower applies for loan servicing and indicates an interest in FSA-2535. The aerial photo the borrower submits indicates the proposed conservation area is 1,000 acres. Using eDALR\$ or the Conservation Contract Estimator Tool, the authorized agency official determines that the borrower can develop a feasible plan if the borrower accepts FSA-2535 for 30 or 50 years. eDALR\$ indicates that a 50-year contract reduces the borrower's debt by \$20,000, while a 30-year contract reduces the borrower's debt by \$12,000. By adjusting the number of acres inputted into eDALR\$, the authorized agency official determines that at a minimum, the borrower has to place 700 acres of land into a conservation easement under a 30-year contract or 500 acres of land into a conservation easement under a 50-year contract to develop a feasible plan.

195 Conservation Contract Review Team (Continued)**G Actions After Reviewing Conservation Contract Review Team Report (Continued)**

If the contract review team has recommended a conservation contract and the authorized agency official determines that the report identifies at least 1 contract eligible area that produces or maintains a feasible plan, the authorized agency official must notify the borrower of the available contract options.

To notify a borrower who is delinquent or financially distressed, the authorized agency official sends the appropriate offer of loan servicing according to Part 3 and a copy of the contract review team's report to the borrower. To notify a current borrower of the borrower's servicing options, the authorized agency official must send the borrower a memo on FSA letterhead and include a copy of the contract review team's report.

The notification for both delinquent and current borrowers must identify the:

- tracts on the borrower's land that are eligible for a conservation contract
- amount of debt canceled by each contract term on each eligible tract
- tracts that would provide the most benefit for conservation
- costs the borrower will incur to create and maintain a conservation contract
- requirements of FSA-2535
- *--corrective action required by FSA-851 which must be completed by the borrower before FSA approval of the conservation contract.--*

The notification for a delinquent or financially distressed borrower also should include contract terms for each eligible tract that produces a feasible plan.

Final approval authority for a conservation contract will be SED.

195 Conservation Contract Review Team (Continued)

H Adverse Decision on Conservation Contract Request

The authorized agency official sends a borrower that is delinquent or financially distressed a notice of mediation and appeal rights according to Part 6 when either:

- FSA finds the borrower to be ineligible for loan servicing, including a conservation contract
- eDALR\$ determines that loan servicing, including a conservation contract, does not enable the borrower to develop a feasible plan
- the authorized agency official determines that the borrower does not possess contract eligible land that enables the borrower to develop a feasible plan.

The authorized agency official sends a current borrower who is not financially distressed a letter of denial with mediation and appeal rights according to 1-APP when either:

- the authorized agency official determines that the farm operation will not remain feasible after the borrower implements FSA-2535
- the contract review team determines that the borrower's land does not possess a conservation eligible tract.

--See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--

The authorized agency official sends the borrower a copy of the contract review team's report with the adverse decision notice.

[7 CFR 766.110(l)] Borrower appeals of the Natural Resources Conservation Service's (NRCS) technical decisions made in connection with a Conservation Contract will be handled in accordance with applicable NRCS regulations. Other aspects of the denial of a Conservation Contract may be appealed in accordance with 7 CFR parts 11 and 780.

I Timeframe for Processing Conservation Contract Request

See Part 3 for more information on loan servicing application processing timeframes.

The authorized agency official should process the request for a conservation contract by a current borrower who is not financially distressed in a timely manner.

248 Closing Deferred Loans

A Introduction to Deferrals

FSA will also reschedule or reamortize, as applicable, all loans deferred through primary loan servicing.

FSA may defer all or part of a loan according to eDALR\$.

B Closing Deferrals

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- ensure that all liable parties have correctly executed FSA-2026
- complete the addendum to FSA-2026 addressing repayment of deferred interest according to FSA-2026 instructions
- complete box 9 of FSA-2026 to address all actions requiring the promissory note, including "deferral", according to FSA-2026 instructions
- mark the existing promissory note or assumption agreement "rescheduled/reamortized with full/partial deferral," as appropriate, and attach it to the new FSA-2026
- file the new deferred FSA-2026 according to 32-AS
- file a copy of the new note with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new deferred FSA-2026 to the borrower at closing
- file the original eDALR\$ report in position 3.

--1M and 5W – Record Loan Deferral transactions will be processed by the servicing office-- in DLS Special Servicing to record the deferred loans as well as record the "DEF" flag on the account. These transactions will be created and processed in the correct sequence by DLS Special Servicing.

248 Closing Deferred Loans (Continued)**C Ongoing Servicing of Deferrals**

County Offices shall service deferred accounts by:

- ~~reviewing the RDBCSO quarterly status report to determine borrowers who have~~ deferrals expiring
- reviewing the borrower's financial progress during the annual analysis according to paragraph 161
- sending the borrower a letter 6 months before the expiration of the deferral stating the amount and due date of the first payment.

After all deferrals on a borrower's account have expired, the "DEF" flag (Exhibit 11) will be ~~converted to a "DEF3" flag by RDBCSO, FLB. This flag is not required to be removed~~ and is used to indicate which accounts have previously been serviced with deferral servicing actions.

If all deferrals on an account must be canceled before their expiration, the "DEF" flag must be removed from the account by processing a 5H transaction in DLS. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.

Deferral flags cancelled as part of PLS transactions will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

249 Closing Write-Downs**A Introduction**

FLP loans can be fully or partially written down.

Loans that are partially written down must be fully restructured. FSA will also reschedule, reamortize, or defer, as applicable, all loans written down through primary loan servicing according to paragraphs 247, 248, and/or this paragraph.

249 Closing Write-Downs

B Closing Write-Down

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- ensure that all liable parties have correctly executed FSA-2026
- mark the existing promissory note or assumption agreement "Satisfied by Approved Debt *--Write-down" if the loan is completely written down or "Restructured with Partial Debt Write-down" if the loan is partially written down, and attach it to the new FSA-2026--*
- attach the promissory note, if required, to the new FSA-2026
- file FSA-2026 according to 32-AS
- provide a copy of the new FSA-2026 to the borrower at closing
- file the original eDALR\$ report in Position 3
- *--SED must approve all write-downs.--*

C SAA Required

[7 CFR 766.201] (a) The Agency requires a borrower to enter into a SAA with the Agency covering all real estate security when the borrower:

(1) Owns any real estate that serves or will serve as loan security; and

--(2) Accepts a write-down in accordance with section 766.111 (paragraph 172).--

FSA requires FSA-2543 when debt is written down on a loan secured by real estate. If the specific loans that are to be written down are not secured by real estate before the current servicing action, FSA-2543 does not need to be completed even if other serviced loans are secured by real estate.

See Part 9, Section 1 for details on servicing SAA's.

A borrower will execute FSA-2543 and it will remain attached to the new FSA-2026. Copies of FSA-2543 will be attached to all copies of FSA-2026.

249 Closing Write-Downs (Continued)

D Processing Write-Down

The authorized agency official will process a 3R – Shared Appreciation Write-down transaction in DLS Special Servicing to record the write-down and to establish an equity record for the debt written down. The equity record will establish an account for the amount of the SAA recapture that may come due.

The equity record will be for the total amount of debt written down on all loans, including those not secured by real estate. This total amount will be used when recording the DLS transactions and also used when completing FSA-2543.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

E Additional Security Required

The borrower must agree to additional liens on available security according to paragraph 211. FSA's real estate and personal property liens will be maintained by cross collateralization even if all real estate or personal property type loans are written off.

As noted in subparagraph 211 A, if additional real estate security is pledged, the filing *--information and appraised market value for the additional security will be included when completing FSA-2543. The additional real estate security will be subject to recapture according to paragraph 342, which includes sales, conveyances, or maturity of the SAA.--*

Example A: A borrower receives a write-down on a loan that is secured by real estate with an appraised value of \$65,000. As part of the servicing, the borrower will also be providing the agency with a lien of previously unencumbered security. This additional security is appraised and valued at \$45,000. When completing FSA-2543, the market value of all real property securing FSA notes will be \$110,000 and filing information for both properties will be included on the *--form. Both properties are subject to recapture.--*

250 Additional Closing Requirements

A Managing Pre-Authorized Debit (PAD) for Servicing

--See 4-FLP, subparagraph 67 C for FSA policy on PAD and restructured debt.--

* * *

251-280 (Reserved)

284 Determining Applicant and Property Eligibility (Continued)**F Conveyance of Homestead Protection Property**

[7 CFR 766.152(a)(4)] Where voluntary conveyance of the property to the Agency is required to process the homestead protection request, the Agency will process any request for voluntary conveyance according to § 766.353 (Part 14).

G Homestead Protection Agreement

If the authorized agency official determines that the borrower is eligible for homestead protection, the borrower and FSA enter into FSA-2539.

- The authorized agency official attaches an unexecuted FSA-2591 to FSA-2539.
- The borrower must provide FSA with:
 - an executed FSA-2539
 - a completed FSA-2570
 - all documents required for voluntary conveyance according to Part 14 for a pre-acquisition situation.

Note: FSA-2071 may be utilized to provide documents to the borrower.

H Notifying Borrower of Appeal Rights

If FSA rejects a borrower's request for homestead protection, or the borrower disagrees with the configuration of the property or the appraisal, the authorized agency official notifies the borrower of the reasons for FSA's decision. In the letter, FSA offers the borrower appeal *--rights according to 1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--*

285-296 (Reserved)

322 Processing a Buyout at Current Market Value

A Notifying Borrower of Buyout

The authorized agency official will notify the borrower of the opportunity to buyout the FSA loans at current market value by sending the borrower a copy of the signed eDALR\$ Report, along with FSA-2521 and FSA-2522 or FSA-2523 and FSA-2524 showing the buyout amount by certified mail.

B Timeframe for Borrower to Pay Buyout Amount

[7 CFR 766.113(b)] After the Agency offers current market value buyout of the loan, the borrower has 90 days from the date of Agency notification to pay that amount.

If the borrower exercises the right to an independent appraisal, negotiation of appraisal, reconsideration, mediation, or appeal, the 90-calendar-day time limit will start on the day the borrower receives the final Agency and/or NAD decision.

A distressed borrower notified of the buyout offer with FSA-2523 and FSA-2524 who subsequently becomes 90 days past due will be provided with servicing notifications in accordance with Part 3. The borrower may still accept the buyout offer by paying the amount due. If the borrower elects to reapply for servicing and provides a complete application, FSA will rescind the buyout offer provided with the FSA-2523 and FSA-2524.

C Processing Buyout Payment

If the borrower accepts FSA's buyout offer, the borrower must pay the entire buyout amount according to 4-FLP, subparagraph 65 F. The buyout amount will be established by processing a 3Q – Market Value Buyout transaction in DLS Special Servicing after the payment has been processed. The payment will be submitted as “other collection” according *--to the FPAC NRRS Guide. The borrower's security instruments will be released--* according to 4-FLP, subparagraph 65 F. The borrower's original promissory notes will be marked “satisfied at current market value” and returned to the borrower.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

322 Processing a Buyout at Current Market Value (Continued)

D Borrower Nonresponse or Inability to Pay Current Market Value

If the borrower does not accept FSA's buyout offer and FSA has a lien on the home of the borrower or any person that pledged their home as collateral, homestead protection will
*--continue to be processed according to Part 7.

Note: Homestead protection processing will not delay acceleration according to 5-FLP, subparagraph 532 A.--*

The borrower can also still apply for debt settlement according to 7-FLP, Part 12.

323-340 (Reserved)

Part 11 Bankruptcies and Civil and Criminal Cases

Section 1 Bankruptcy

401 FSA Actions When Borrower Files for Bankruptcy

A Overview

FSA must satisfy all requirements pertaining to a creditor in a bankruptcy proceeding, including the procedures under Chapter 7 (Liquidation), Chapter 11 (Reorganization), Chapter 12 (Adjustment of Debts of a Family Farmer with Regular Annual Income), or Chapter 13 (Adjustment of Debts of an Individual with Regular Income) of the Bankruptcy Code (11 U.S.C.), whichever is applicable. The authorized agency official must ensure that a *--valid Proof of Claim (POC) is filed before the filing deadline to ensure that collateral securing the direct loan is protected, and that all rights of participation are exercised or--* protected. The authorized agency official's responsibilities include, but are not limited to, the following requirements.

- *--Filing POC before the filing deadline where required. See subparagraph 403 B for additional guidance.--*
- Attending, and where necessary, participating in meetings of the creditors and court proceedings.
- Protecting the collateral securing the direct loan and resisting any adverse changes that may be made to the collateral. If the debtor remains in possession, the authorized agency official must monitor for any adverse changes that may be made to the collateral and should notify OGC/DOJ to discuss whether legal action is necessary to protect FSA's interest.
- If the trustee in bankruptcy has taken action to liquidate FSA's collateral, the authorized agency official must cooperate with the trustee in the administration of the estate. Such cooperation, however, should not preclude FSA from opposing actions of the trustee that do not advance the interests of the Agency. The authorized agency official should attend and observe any public sales of collateral held by the trustee and should be prepared to submit a minimum bid, if appropriate.
- Monitoring confirmed plans under chapters 11, 12, and 13 of the bankruptcy codes to determine borrower compliance. If the borrower fails to comply, notify OGC/DOJ to discuss whether FSA should seek relief from the automatic stay.
- Notifying OGC of the bankruptcy filing and keeping OGC regularly informed in writing of all aspects of the proceedings.

* * *

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**A Overview (Continued)**

*--FSA has developed a Bankruptcy Guide for FSA Farm Loan Programs and a series of bankruptcy training:

- Bankruptcy and Proof of Claim Preparation Training
- LSPMD Bankruptcy Training Part 2.

These resources can provide additional guidance in handling bankruptcy cases. For more information, see:

<https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/programbased.aspx>.*

B Suspending Loan Servicing

If a borrower files a bankruptcy petition, the authorized agency official will suspend all pending special servicing and collection actions. The authorized agency official will notify the attorney representing FSA in any foreclosure action that the foreclosure action must be placed on hold, and FSA will continue to monitor the account and conduct regular servicing to protect the interests of the Government.

All routine servicing correspondence will be sent to the borrowers' attorney with copies to all borrowers. The correspondence should include one or more prominently displayed disclaimers that affirmatively state that FSA is not attempting to collect discharged debt against the debtor personally. An example of a disclaimer that could be used for these purposes would be:

--THIS INFORMATIONAL NOTICE IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS A LEGALLY REQUIRED NOTICE OF FSA's RIGHT TO [insert reason for notice]. FSA IS ONLY EXERCISING ITS RIGHTS AS ALLOWED BY LAW. FSA RESERVES THE RIGHT TO EXERCISE ANY LEGAL RIGHTS.--

With prior approval of OGC, the authorized agency official should contact the debtor's attorney to seek permission to schedule any required farm visits, inspections, or appraisals.

If the agency's UCC's or other security instruments need to be renewed, modified, amended, *--filed, or released the authorized agency official will send all borrowers FSA-2410 or--* similar document approved by OGC, with a copy to the borrowers' attorney .

FSA must exercise due caution to avoid violating the terms of the automatic stay. Authorized agency officials must ensure that any discussions with the borrowers are not viewed as attempting to collect a debt.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)

C Flagging the Account

--Upon notification that the borrower has filed bankruptcy, the account is flagged “BAP” using FSA-2562 by the State Office by processing the Manage Flags function in DLS Customer-- Management. The “BAP” flag will remain on the account until 1 of the following occurs:

- bankruptcy is dismissed
- there is a confirmed plan and the case is closed

*--**Note:** When a bankruptcy is administratively closed after a plan has been confirmed but before a discharge is granted, the “BAP” flag will remain on the account unless OGC confirms the flag can be removed.--*

- the account is settled.

*--**Notes:** The “PLS” flag must be removed by processing the Manage Flags function in DLS Customer Management before a “BAP” flag can be established (Exhibit 11).--*

An account cannot be flagged “BAP” and “FAP” at the same time. If foreclosure action is taken against an account in bankruptcy, the “BAP” flag should be removed and the “FAP” flag added until after the foreclosure action has been completed. During the time that the account is not flagged “BAP”, the authorized agency official will monitor the TOP screens to ensure that all discharged loans are removed from TOP consideration according to 7-FLP, Part 4.

D Removal From Offset

Upon notification that the borrower has filed a bankruptcy petition, the authorized agency
--official must remove the borrower from both the TOP screens and internal administrative offset. The authorized agency official will contact OGC if there are any pending or potential farm program payments. Farm Programs should be instructed to freeze the payment until guidance is received from OGC in determining whether FSA can seek relief from the automatic stay to conduct an administrative offset or release the payment to the borrower.—

If other obligated individuals/entities have not filed for bankruptcy, the authorized agency official will review 7-FLP, Parts 3 and 4 and will consult with OGC to determine whether co-borrowers remain eligible for offset.

Note: Authorized agency official must ensure that ineligible co-borrower(s) are unlinked as outlined in the DLS User Guide which is available at

--<https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/applicationbased.aspx>.--

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**E Notifying the Borrower's Attorney of Loan Servicing Options if Borrower Was Not Previously Notified**

[7 CFR 766.301] If a borrower files for bankruptcy, the Agency will provide written notification to the borrower's attorney with a copy to the borrower as follows:

(a) The Agency will provide notice of all loan servicing options available under Subpart C (Part 3) of this part, if the borrower has not been previously notified of these options.

Unless otherwise advised by OGC, the authorized agency official will send Exhibit 34 with the appropriate PLS notice * * * according to paragraph 67 to the borrower's attorney (if the borrower has an attorney) via certified mail with copies to all borrowers within 15 calendar days of receiving notice of the bankruptcy filing. If the borrower does not have an attorney, the notices should be sent directly to the borrower via certified mail.

The authorized agency official must track all notification and servicing activity through DLS Special Servicing through utilization of the Bankruptcy category. All Bankruptcy tracking in DLS will be done using the primary debtor's account. If there are related entities that file bankruptcy independently from the primary debtors account, refer to the DLS User's Guide for specific information on how to track these related entities filing bankruptcy independent of a primary debtor.

F Notifying the Borrower's Attorney of Servicing Options if the Borrower Was Previously Notified

[7 CFR 766.301(b)] If the borrower received notice of all loan servicing options available under Subpart C (Part 3) of this part prior to the time of bankruptcy filing but all loan servicing was not completed, the Agency will provide notice of any remaining loan servicing options available.

If FSA notified the borrower of primary loan servicing before the borrower filed for bankruptcy and some servicing options are still available, the authorized agency official will send Exhibit 34 and the appropriate servicing forms along with any required application forms to the borrower's attorney (if the borrower has an attorney) with copies to all borrowers explaining what options remain. Servicing and servicing timeframes are suspended on the date the borrower files for bankruptcy and resume on the date the borrower's attorney receives Exhibit 34 by certified mail.

Note: If no servicing options remain, do not include FSA-2510 with Exhibit 34.

If the borrower or borrower's attorney does not request any remaining servicing options, or no servicing options remain, the authorized agency official will not take any further action to liquidate the account until the stay is lifted and they are notified by the State Office.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**G Referring a Bankruptcy to the State Office**

The authorized agency official will inform the State Office of any developments in the borrower's bankruptcy case, but will take no action against the security unless directed by SED.

The authorized agency official will begin compiling the supporting documents to be filed with POC according to paragraph 403, as directed by State supplements.

Because of the complexities of bankruptcies and the need to coordinate with multiple parties, it is strongly recommended that the State Office assume management and control (with FLC providing oversight and direction) of all FLP bankruptcy proceedings to be completed by the *--Agency, including the preparation of POC. The State Office will develop a follow-up/--* tracking system, which supplements DLS to ensure FSA meets all required bankruptcy court timeframes.

SED should issue a State supplement describing what information is to be forwarded to the State Office in the event of a borrower filing bankruptcy. SED may issue additional State supplements as required to comply with State laws with regional OGC guidance/advice.

402 Borrowers' Rights and Responsibilities About Loan Servicing**A Application Requirements for a Borrower Not Previously Notified of Loan Servicing Options**

[7 CFR 766.302(a)] To be considered for loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within 60 days of the date of receipt of Agency notice on loan servicing options.

B Application Requirements for a Borrower With Previous Monetary and *--Non-monetary Notification Pending--*

[7 CFR 766.302(b)] To be considered for continued loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within the greater of:

(1) Sixty days after the borrower's attorney received the notification of any remaining loan servicing options; or

(2) The remaining time from the Agency's previous notification of all servicing options that the Agency suspended when the borrower filed bankruptcy.

C Acknowledgment of Agency Noninterference With the Bankruptcy Code

[7 CFR 766.303(a)] Any request for servicing is the borrower's acknowledgment that the Agency will not interfere with any rights or protections under the Bankruptcy Code and its automatic stay provisions.

D Obtaining Court Approval Before Exercising Servicing Rights

[7 CFR 766.302(c)] The borrower is responsible for obtaining court approval prior to exercising any available servicing rights.

402 Borrowers' Rights and Responsibilities About Loan Servicing (Continued)

E When a Bankruptcy Plan Is Confirmed Before Servicing or Appeals Are Completed

[7 CFR 766.303(b)] If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and subpart C (Part 3) of this part, as appropriate.

Before completing the servicing or appeals process post-confirmation, the authorized agency official will confirm with the borrower's attorney (if the borrower has an attorney) or the borrower if not represented, that they still desire to proceed with the servicing or appeals process.

F Chapter 7 Servicing Requirements

[7 CFR 766.303(c)] A borrower filing for bankruptcy under Chapter 7 of the Bankruptcy Code may not receive primary loan servicing unless the borrower reaffirms the entire Agency debt. A borrower who filed chapter 7 does not have to reaffirm the debt in order to be considered for homestead protection.

To be effective, a reaffirmation agreement must be "made" prior to entry of discharge. Therefore, a reaffirmation agreement that was signed post-discharge does not restore the borrower's personal liability for FSA's debt.

If the borrower asks FSA for a copy of a reaffirmation agreement, the authorized agency official should refer the borrower to their attorney, as it is the attorney/borrower's responsibility to provide FSA with the agreement. If the borrower does not have an attorney, the reaffirmation documents can be obtained from the U.S. courts website referenced in

*--subparagraph 403 A. Once the borrower obtains permission from the court and reaffirms the debt, the authorized agency official will process the primary loan servicing application, or remaining servicing options as indicated in Exhibit 34.

The authorized agency official must review boxes 1 through 5 of the borrower's prepared Cover Sheet for Reaffirmation Agreement and all of Part I of the borrower's prepared Reaffirmation Agreement for accuracy and to ensure it does not change the terms of the outstanding agency indebtedness before signing the Reaffirmation Agreement. The authorized agency official may assist the borrower by providing this information to the borrower's attorney or to the borrower.--*

If the borrower reaffirms the debt in order to be considered for primary loan servicing as indicated in Exhibit 34, but FSA later denies the servicing, the borrower may revoke the reaffirmation to the extent allowed by provisions of the Bankruptcy Code.

403 Filing POC

A Role of the State Office

In a bankruptcy case, the State Office will determine whether FSA has security for the debt and whether the debtor has other assets from which FSA could make a substantial collection. In making this determination, the State Office must request additional information as needed from the authorized agency official.

Unless the bankruptcy case is characterized as a no-asset Chapter 7, FSA is required to file POC to receive payments from a debtor in bankruptcy. Copies of all official bankruptcy forms can be found at <https://www.uscourts.gov/forms/bankruptcy-forms>.

POC should be filed using the document from the U.S. courts website or similar document approved by the court. FSA's POC must be accompanied by supporting documentation that is properly redacted to protect personally identifiable information according to FSA policy and Bankruptcy Court requirements. Supporting documentation would include:

- copies of all properly redacted promissory notes and addenda (including copies of promissory notes that were previously restructured)
- copies of all assumption agreements, shared appreciation agreements, disaster set asides, distressed borrower set asides, and supplemental payment agreements--***
- copies of all recorded mortgages/deeds of trust
- copies of all security agreements
- evidence of perfection of a security interest (i.e., copies of all UCC filings) as well as EFS filings (if applicable)--***
- a copy of the judgment of foreclosure (if applicable).

--Note:** If any FSA loan documents or security instruments are lost or have been destroyed, FSA should include an affidavit or declaration that explains the circumstances of the loss or destruction. Consult with OGC regarding the proper format for the affidavit.**--

State Office will consider registering for a PACER account to file POC electronically if permitted by the bankruptcy court. State Office may consider providing access to PACER for field staff. A Statewide shared login and password may be used as allowed by PACER. For more information, see <https://www.uscourts.gov/court-records/electronic-filing-cmecf>.

403 Filing POC (Continued)**A Role of the State Office (Continued)**

When filing online, FSA staff should pay close attention to the total size of the documents to be filed (including attachments) to avoid having POC rejected for exceeding any limits imposed by the clerk's office for a particular jurisdiction.

State Office will be responsible for preparing and filing CCLR with DOJ when FSA or OGC requests DOJ's assistance with a bankruptcy filing. The CCLR and instructions are available at <https://www.justice.gov/jmd/debt-collection-management-staff>.

B Timely Filing POC

FSA's POC is due within 180 calendar days after the petition date. However, FSA staff are encouraged to file POC as soon as FSA has collected all of the information needed to complete POC (such as an updated appraisal * * *, etc.).

- Unless otherwise directed, SED will provide OGC with a complete copy of the filed POC and supporting documents, which are available at <https://www.uscourts.gov/forms/bankruptcy-forms/proof-claim-0>.
- The authorized agency official will consult OGC to determine when Notice of Post-Petition Mortgage Fees, Expenses and Charges will be completed and submitted to ensure the agency's post-petition costs are included in secured bankruptcy claims.

Note: Real estate appraisal costs will be determined according to 1-FLP, Exhibit 25, usually based on the date of the appraisal and not when the cost is applied to the borrower's account. When possible, it may be beneficial to delay submitting POC until the transaction is displayed in the customer history screen, otherwise it is possible to submit an amended POC with OGC concurrence.

- SED will issue a State supplement detailing the procedures for filing a POC and supporting documents.

C Actions for Borrower Under a Chapter 7 No-Asset Case

POC should not be filed if the Chapter 7 case is listed as a no-asset case. If the trustee subsequently discovers assets, the trustee will notify FSA if/when a POC needs to be filed.

403 Filing POC (Continued)**D Actions for Borrower Under Chapters 7 Asset Cases and Chapter 11, 12, or 13**

A copy of the filed POC should be submitted to OGC, along with a memorandum that identifies the security that FSA took for each FLP loan.

If FSA obtained a judgment against the borrower before the bankruptcy filing, FSA should consult with OGC to determine whether the judgment should be used as the basis for FSA's POC.

With advice from OGC, SED will instruct the authorized agency official about actions to take with respect to meetings of creditors.

SED will take no other actions without OGC's or DOJ's approval.

E Chapter 13 Bankruptcies When FSA Has a Lien on the Debtor's Principal Residence

If FSA's debt is secured by the borrower's principal residence, FSA should file POC and *--POC, Attachment A.--*

If FSA's claim is secured by the debtor's principal residence, and the debtor's plan provides that either the trustee or the debtor will make contractual installment payments, FSA should file and serve the Notice of Mortgage Payment Change upon the debtor, debtor's counsel, and the trustee whenever the payment amount changes. This notice must be filed no later than 21 calendar days before a payment in the new amount is due.

If FSA's claim is secured by the debtor's principal residence, and FSA incurs post-petition fees, expenses or charges, FSA should file and serve the Notice of Post-Petition Mortgage Fees, Expenses and Charges upon the debtor, debtor's counsel, and the trustee. This notice must be filed within 180 calendar days after the date upon which the post-petition fees, expenses and charges were incurred.

Note: OGC should be consulted about the filing of Notice of Mortgage Payment Change and Notice of Post-Petition Mortgage Fees, Expenses and Charges as some courts may not require the documents.

404 Reviewing Borrower's Reorganization Plan

A Referral and Recommendation to SED

The authorized agency official will review the debtor's bankruptcy schedules to determine whether FSA's claim is accurately stated.

- *--Pay close attention to Schedule A/B, Part 6 (debtor's description of farm property),--*
Schedule D (list of secured claims), Schedule I (debtor's income), and Schedule J (debtor's expenses). Also review the debtor's Statement of Financial Affairs, which
--identifies affiliated businesses, payments, losses, transfers of property, and the Statement of Intention for Individuals Filing Under Chapter 7 for Chapter 7 debtors.--
- Review the debtor's operating reports if the debtor is operating as a debtor-in-possession.
- If FSA is a secured creditor, evaluate whether FSA's security interest in the debtor's property remains perfected by doing an updated UCC lien search and real estate lien search (if applicable).

Upon receipt of a proposed bankruptcy plan that calls for adjustment of FSA debt, the authorized agency official will consult with OGC to determine whether the matter should be referred to DOJ for anticipated assistance, such as filing an objection to the plan or seeking relief from the automatic stay.

If the debtor's plan proposes to reduce FSA's secured claim (aka Cram Down) to the value of
--FSA's collateral, an appraisal may be necessary after consultation with OGC.--

The authorized agency official should recommend to OGC and DOJ that they pursue adequate protection payments from the borrower when the:

- debtor's plan does not provide for payments to begin immediately
- *--debtor proposes to use, sell, or lease FSA's collateral including cash collateral--*
- debtor proposes to "prime" FSA's lien as part of a proposal to obtain post-petition financing from a third party.

404 Reviewing Borrower's Reorganization Plan

B Subsequent FSA Loans to Borrowers in Bankruptcy

If FSA receives any form of loan request from a borrower in bankruptcy, the authorized agency official must consult with OGC and/or DOJ before approving the loan request. In order for FSA to consider approving a subsequent loan, the authorized agency official will ensure the following:

- borrower must submit a complete application according to 3-FLP and must be determined eligible
- borrower has resolved any existing non-monetary default issues and/or concerns about the borrower's lack of good faith
- *--the terms of the proposed loan (loan amount, interest rate, repayment term, and FSA's receipt and application of payments) must be approved in advance by the bankruptcy court
- the proposed security for the subsequent loan must be approved in advance by the bankruptcy court and be adequate to ensure repayment of FSA's debt; in most cases, this will require that FSA be granted a super-priority lien on the proposed security
- borrower's bankruptcy plan already allows for new secured loans, or is modified to provide for payment of FSA's loan(s)
- borrower's bankruptcy plan remains feasible, or will be feasible as modified.--*

If the borrower is determined to be eligible for a subsequent loan according to 3-FLP, the authorized agency official will consult with OGC and DOJ to ensure the following are considered:

- borrower has not taken actions which would appear to lack good faith
- borrower has addressed all non-compliance issues/concerns with loan agreements and documents including terms of confirmed plan (payment of taxes and maintenance of insurance)
- borrower's plan adequately addresses the valuation of FSA's existing security
- FSA receives relief from the automatic stay upon default of existing and subsequent loan payments.

The authorized agency official shall consult with State Office to ensure all loan closing conditions have been met before scheduling a loan closing

404 Reviewing Borrower's Reorganization Plan (Continued)**C FSA Actions After Court Confirms Plan**

--Within 30 calendar days of receiving notification of the bankruptcy reorganization plan confirmation, SED will notify RD Business Center, FLB of the terms and conditions of the plan including any adjustment of the FSA debt, using FSA-2574. See paragraph 410 for additional guidance. SED should attach to FSA-2574 a copy of the reorganization plan, signed order-- of confirmation, and discharge order if applicable.

RD Business Center, FLB will establish the borrower's account according to the reorganization plan and flag the account "SAA" (Exhibit 11) when it is applicable. The "SAA" flag will remain on the account until either the bankruptcy plan is completed and the case is closed, or the bankruptcy is dismissed.

The authorized agency official will file a copy of the plan, order of confirmation, and the original promissory notes according to 32-AS.

The authorized agency official must indicate that the borrower is paying under a reorganization plan in the borrower's case file and in DLS Special Servicing.

The authorized agency official will review the account within 15 calendar days of RD Business Center, FLB completing the transaction, to ensure the adjustments to the account were completed correctly.

D Application of Payments

*--When a confirmed bankruptcy plan restructures or reduces FSA's secured claim, the plan will typically provide for periodic payments on the secured debt, and for little or no payments on the unsecured portion of the debt.

The County Office must ensure that:

- payments it receives on the secured portion of the claim are applied as "regular payments" to the new, secured note (or notes, if applicable) created according to subparagraph 410 A
- any payments received on the secured debt are not applied to the unsecured debt.--*

404 Reviewing Borrower's Reorganization Plan (Continued)**D Application of Payments (Continued)**

*--If any payments are received on the unsecured debt, FSA must ensure they are applied to the unsecured debt and not the secured debt.

The authorized agency official should consult with OGC to determine whether the proceeds from the sale of security or other assets should be applied to an arrearage or as a "regular payment" rather than applying the proceeds as an "extra payment" according to 4-FLP, Part 5.

If OGC determines that payments should be applied to the arrearage or as a "regular payment", State Office will review the account within 15 calendar days of the transaction--* being completed to ensure payments to the account were applied correctly.

405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction**A Borrower Becomes 90 Calendar Days Past Due on a Chapter 11, 12, or 13 Reorganization Plan**

When a borrower becomes 90 calendar days past due on a Chapter 11, 12, or 13 reorganization plan while still under Bankruptcy Court jurisdiction, the authorized agency official will immediately notify the State Office of the facts of the case. The State Office will contact OGC for advice as required.

Before contacting OGC, the authorized agency official will review payments applied to the *--borrower's account, the confirmed plan, and trustee reports through PACER (for some trustees, reports may be on a trustee's website such as <https://www.13network.com/>), to--* confirm that all bankruptcy payments have been applied according to the terms of the confirmed plan.

Often the trustee is required to make distributions from the borrower's payment to pay administrative fees. FSA should receive all of the allocated payment before the borrower receives a discharge and case is closed by the court. As long as the borrower is making the designated payment to the trustee, FSA should not take any additional action against the borrower.

If the borrower fails to remit payments directly to FSA or to the trustee as required by the confirmed plan, State Office should consult with OGC and DOJ to pursue relief which may include dismissal of the bankruptcy. If the bankruptcy is dismissed, see 5-FLP, subparagraph 405 C.

405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction (Continued)

B Servicing When the Bankruptcy Is Dismissed Without a Confirmed Plan and the Borrower Is in Default

If the Court dismisses a bankruptcy case and the borrower is in default on FLP loans, the authorized agency official will notify the borrower of any remaining servicing options unless:

- OGC advises that notification is inconsistent with the Bankruptcy Code, 11 U.S.C. §101 et seq.
- FSA has referred the borrower's loan to DOJ
- FSA has previously accelerated the loan, as all of the borrower's servicing rights are exhausted.

If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15 with concurrence from OGC.

C Servicing a Borrower When a Bankruptcy Is Dismissed After a Confirmed Plan

If the borrower makes at least 1 full payment to FSA on the confirmed plan before the bankruptcy is dismissed, the authorized agency official will send the borrower a new servicing notification package unless FSA has previously accelerated the account.

Exception: If the payment de-accelerated the account under State law, a new servicing notification package is required. SED will issue a State supplement to clarify this exception.

If the borrower does not make at least 1 full payment to FSA, the authorized agency official will send notification of the remaining servicing options based on the previous notification. If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15.

*--D Returning the Borrowers Account to Pre-Petition Terms When a Bankruptcy Is Dismissed After a Confirmed Plan

Within 30 calendar days of receiving notification from the bankruptcy court of the order of dismissal, SED will submit a memo to RD Business Center, FLB to reverse the payments on the post-petition loan and reinstate the terms of the pre-petition note. Any reversed payments should be reapplied to the pre-petition note.--*

E Resuming TOP and Internal Offset

OGC will be consulted before FSA determines whether the borrower is eligible for offset according to 7-FLP, Parts 3 and 4.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed**A Removing the “SAA” Flag and Writing Off Discharged Debt**

Upon receipt of the discharge order from the Bankruptcy Court, the authorized agency official will review the borrower’s records to determine whether FSA will cancel any discharged debt.

If all liable parties are discharged and the bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to 7-FLP, Part 12.

The State Office will forward the approved FSA-2731, with a copy of the discharge, to RD Business Center, FLB for processing the debt cancellation.

RD Business Center, FLB will remove the “SAA” flag and process the necessary transactions to write off any portion of the debt.

B Servicing Remaining Liable Parties

If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against non-discharged individuals, entities, etc., and any remaining security
- take all allowable collection actions in a timely manner, including collection of unsecured account balances through offset and referral to Treasury as set forth in 7-FLP
- determine whether a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the non-discharged individuals, would be appropriate and/or financially beneficial to the Government

Note: Unless they meet the requirements for FSA-2731, Cancellation of Debt Without Application, partial cancellation of debt requires each non-discharged individual to complete FSA-2732, Debt Settlement Application. Partial debt settlement applications will be processed according to 7-FLP Part 12 with FSA-2731 and FSA-2732 transactions processed concurrently.

- monitor these accounts closely to ensure timely resolution.

C Returning to Regular Servicing

After the bankruptcy case is closed, the authorized agency official will service bankruptcy loans according to 4-FLP, subject to the confirmed reorganization plan.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed (Continued)**D Servicing if the Borrower Defaults on the Confirmed Reorganization Plan**

If a borrower becomes 90 calendar days past due or is in non-monetary default after the court issued a discharge order and after the case is closed under Chapter 11, 12, or 13 of the Bankruptcy Code, the authorized agency official will notify the borrower of loan servicing options according to Part 3, unless servicing actions would be inconsistent with the confirmed bankruptcy plan or the Bankruptcy Code or FSA has referred the account to DOJ.

If FSA believes the account is in non-monetary default, before making a formal determination, State Office will consult with OGC to ensure the notification is consistent with the borrower's confirmed plan.

***--E Responding to Notice of Final Cure Payment in Chapter 13 Bankruptcy**

Within 21 calendar days of receipt of the Notice of Final Cure Payment, FLC will complete form 4100R, Response to Notice of Final Cure Payment. Form 4100R must be filed in PACER as a supplement to the POC.

If the prepetition arrearage has not been paid in full and the borrower is not current with all post-petition payments, including all fees, charges, expenses, and costs, FLC will attach an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of the response:

- payments received
- fees, costs, and expenses assessed to the mortgage
- amounts FSA contends remain unpaid.--*

407 Liquidation During Bankruptcy**A Automatic Stay Requirements**

FSA must receive relief from the automatic stay from the Court before liquidating the borrower's security. If the Court allows, and all servicing requirements are met, FSA may liquidate the security before the discharge of debt or as otherwise addressed by OGC.

Note: Obtaining relief from the automatic stay does not supersede FSA's normal servicing requirements which require the account to be accelerated before liquidating the *--borrower's security. See paragraphs 534 and 537 for additional guidance. If FSA--* is unable to timely accelerate the account or is unable to timely liquidate security OGC will be consulted, in an effort to develop strategies with DOJ, the borrower's attorney, and the trustee to liquidate abandoned security.

407 Liquidation During Bankruptcy (Continued)**A Automatic Stay Requirements (Continued)**

If FSA becomes aware during the course of a bankruptcy that the borrower has abandoned FSA's collateral, FSA should consult with OGC to determine what actions are necessary to secure, maintain, preserve, manage, and operate the abandoned security property according to 7 CFR 767.51 and FSA security instruments. It is recommended that reliable third-party documentation and/or OGC opinions be obtained to support FSA's actions. See 5-FLP, Part 18 for additional guidance.

If the borrower will not cooperate in allowing FSA access to the property, security or removal of the security, the authorized agency official will report the borrower's actions to State Office. State Office will consult with OGC.

--In the case of a surrender, after FSA obtains relief from stay, FSA may still determine it is in the Agency's best interest to work with the borrower toward voluntary liquidation as found in 7 CFR 766.532 and 5-FLP Part 13 or voluntary conveyance as found in 7 CFR 766.353 and 5-FLP Part 14.--

407 Liquidation During Bankruptcy (Continued)

B Chapter 7 Cases After Discharge

In Chapter 7 cases after discharge, FSA will liquidate delinquent accounts as authorized by OGC if both of the following are true:

- the borrower has not reaffirmed the debt
- an Abandonment Order for FSA security has been issued by the court or the bankruptcy case is closed.

The borrower was previously notified of default using Exhibit 34 or 35 – if the borrower was not past due or monetary default was not included in Exhibit 34, then the borrower must be notified of the monetary default before accelerating the account.

***--Note:** Exhibit 35 must be sent by certified mail to the borrower.--*

In some cases, discharged borrowers who did not reaffirm their FSA debt desire to maintain ownership of the property by keeping FSA loan payments current at the time of the bankruptcy and continuing into the future. In these cases, borrowers will be sent Exhibit 34.5 to remind them of their rights and FSA requirements.

Note: Flag Chapter 7 discharge accounts as SAA when borrower agrees to keep the account current in response to Exhibit 34.5. To establish an account flag, FSA-2562 will be sent to the RDBCSO.

However, should the borrower later default on the payments, the borrower needs to be
--notified of the default using Exhibit 35. Exhibit 35 will be sent 90 calendar days after default or before acceleration for borrower only in nonmonetary default. If the borrower does not--
 resolve the default, FSA will accelerate the account as referenced above.

Note: Do not send Exhibit 34.5 if the borrower does not intend to keep loan payments current.

In cases when 1 or more borrowers have received a discharge, but at least 1 borrower remains liable:

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities must be updated and unlinked in the DLS Customer Profile Related Entity function to reflect they are no longer a co-borrower/ cosigner/guarantor

Note: See DLS User Guide for additional information.

- the Chapter 7 discharge order must be maintained in the case file.

407 Liquidation During Bankruptcy (Continued)**B Chapter 7 Cases After Discharge (Continued)**

Collection of unsecured account balances will continue for all remaining liable borrowers through offset and referral to Treasury as set forth in 7-FLP.

In community property States:

- the authorized agency official will consult with the regional OGC, as needed, before pursuing separate collection action against a non-discharged borrower who is the spouse of a discharged borrower
- when collection action cannot be taken against a non-discharged spouse and the non-discharged spouse is the only remaining liable obligor for the unsecured loan balance, only the individual or entity receiving the discharge will be listed on FSA-2731.

C Canceling the Debt When All Liable Parties Are Discharged

If all liable parties are discharged and the FSA security is liquidated, FSA may cancel the debt using FSA-2731 according to 7-FLP, Part 12.

D Notifying Borrower if Servicing Options Are Remaining

If the authorized agency official did not previously notify the borrower's attorney or borrower of any servicing options before or during the course of the bankruptcy proceedings, *--FSA will send the notices according to subparagraph 401 E before liquidating any security--* property.

E When FSA Previously Notified the Borrower of Servicing Options

If the authorized agency official previously notified the borrower's attorney or borrower of the remaining servicing options and none remain, FSA will accelerate the account and liquidate according to Part 16 and any instructions from OGC.

Note: The borrower may not appeal the acceleration.

407 Liquidation During Bankruptcy (Continued)**F Discharged Borrower Keeps FLP Loans Current**

Borrowers who have received a bankruptcy discharge may continue to pay FLP loans that are secured by real estate. In these cases, OGC may advise that foreclosing against the security is not possible unless the secured loans become delinquent.

The authorized agency official will:

- ensure that the account remains flagged “BAP” according to subparagraph 401 B
- monitor the TOP screens to ensure that all unsecured discharged loans are removed from TOP consideration according to 7-FLP, Part 4
- continue monitoring the account until the secured loans are paid in full or become delinquent.

If the secured loans become delinquent, consult with the regional OGC, as needed, to determine whether any additional notices must be sent before liquidating the security.

In some cases, it may be appropriate and/or in the Government’s best interest to process partial cancellation of debt. Partial cancellation will be completed using FSA-2731 according to 7-FLP, Part 12.

Partial cancellation in these situations may assist FSA to:

- comply with the bankruptcy discharge order by ensuring that no erroneous offset collection is taken on the discharged unsecured loans that are still showing as delinquent in FSA’s financial system
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.

408 (Withdrawn--Amend. 47)

409 (Withdrawn--Amend. 49)

--410 Restructuring Borrower's Accounts According to the Terms of a Confirmed Plan*A State Office Responsibilities**

When a confirmed bankruptcy plan restructures or reduces FSA's secured claim, the authorized agency official will complete FSA-2574 to restructure the account. Restructured loans should begin on the date provided in the plan. If the plan is silent on the date, the effective date of the plan should be used. The effective date is the date the court confirms the plan, unless the plan provides a different effective date.

Secured debt should be restructured to match the amount of secured debt, term, payment frequency, and interest rate the confirmed plan provides for the secured portion of FSA's claim.

Note: This can require multiple loan numbers when different parts of FSA's secured claim will be paid differently, such as when a debtor has an FO and term OL that are each being restructured under the confirmed plan.

The sale of surrendered FSA collateral should be applied as an extra payment on a restructured loan as provided in the plan. Whether this should be applied to a particular restructured secured loan or restructured unsecured loan will depend on the terms of the plan, and FSA should receive confirmation from OGC how to apply the extra payment.

Notes: All amounts of debt on FSA pre-petition notes that are restructured or reduced under a confirmed plan must be accounted for in FSA-2574, except for pre-petition notes that are not restructured by the confirmed plan. This includes loan numbers for advances that were tied to the restructured or reduced notes.

FSA-2574 and the borrower's confirmation should be reviewed by the County Office to ensure the payments received are applied according to subparagraph 404 D.--*

411-420 (Reserved)

497 Real Property Conveyance Application Requirements (Continued)**A Application (Continued)**

[7 CFR 766.353(a)] (6) Assignment of all leases to the Agency. The borrower must put all oral leases in writing;

The borrower must put oral leases, including all terms and conditions, in writing and assign all leases to FSA. If a borrower is leasing land on which FSA holds a security interest to a third party for income, FSA will receive all lease proceeds after the conveyance. See 4-FLP, Part 5 for handling lease proceeds.

[7 CFR 766.353(a)] (8) Complete debt settlement application in accordance with subpart B of part 761, subpart F of this chapter (7-FLP, Part 12) before, or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the FLP debt; and

The borrower must complete and submit FSA-2732 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security fully satisfies the FSA debt.

The debt settlement application will be processed according to 7-FLP, Part 12. The applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

[7 CFR 766.353(a)] (9) Any other documentation required by the Agency to evaluate the request.

B SED Authority to Accept Applications from Estates

On an individual case-by-case basis, an Administrator's Exception under 7 CFR 766.353(a) to accept an application for voluntary conveyance of real property from an estate may be approved by SED according to this paragraph when:

- servicing the deceased borrower's account has been completed in accordance with 4-FLP, Part 10
- all other requirements in this part are met.

Administrator's Exception authority may not be further redelegated.

***--C Incomplete Applications**

Process incomplete applications according to paragraph 10.--*

498 Additional Requirements**A Other Use Rights**

If water rights, mineral rights, development rights, or other use rights encumbered by FSA are not included in FSA-2569, or other guidance is needed, the authorized agency official refers the case to SED to obtain OGC guidance as required on the appropriate documents needed to transfer these rights to FSA. SED may issue a State supplement as required.

B Obtaining an Appraisal

The authorized agency official will obtain an appraisal of the property to establish its current market value. The appraisal must be based on the “as is” market value according to 1-FLP, Part 6 and must not include potential deed restrictions or easements FSA may place on the property.

C Conducting a Due Diligence Review

FSA must complete its due diligence process prior to taking real estate security into inventory via foreclosure or voluntary conveyance.

The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review. The cost of any hazardous waste or other environmental clean-up identified by the due diligence review may be considered by FSA, but will not usually be included in Exhibit 37 as clean-up is usually not required for sale of the property.

--Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.--

D Obtaining a Title Search

[7 CFR 766.353(a)(7)] Title insurance or title record for the security, if available;

The authorized agency official will conduct a new lien search, according to the standard procedures used in the borrower’s State and the State supplement issued according to subparagraph 462 B, if adequate title information is not available in the borrower’s case file.

The borrower will pay the cost of all title searches or it will be charged to the borrower’s account.

498 Additional Requirements (Continued)**E Servicing Notifications**

[7 CFR 766.353(b)(3)] The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

F Full Liquidation

[7 CFR 766.353(b)(2)] The borrower conveys all real property securing the Agency loan; and

The authorized agency official will confirm that the conveyance offer includes all real ~~property~~ securing FSA debts. If the borrower has real property or personal property ~~securing an FSA loan that is not part of the conveyance offer~~, the authorized agency official must document that the borrower is in the process of liquidating this security by another liquidation method approved by FSA. All borrower sales must be completed before the voluntary conveyance.

The authorized agency official will include in the borrower's case file any appraisal, environmental information, and title search from subparagraphs B, C, and D, respectively.

The authorized agency official will include a statement of the borrower's unpaid FSA debts with a printout from the appropriate ADPS DL or AI screens. Voluntary conveyance documentation must include information on prior and junior liens, as well as judgments, if not included in the conveyance offer.

499 Processing the Borrower's Conveyance Offer**A Forwarding the Case File**

The authorized agency official will forward the completed case file to SED if required. The approval official may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized agency official will develop a completed credit action in FBP including a recommendation to the approval official on whether to accept or reject the conveyance offer.

B Conditions for Conveying Real Property

[7 CFR 766.353(b)] The Agency will accept voluntary conveyance of real property by a borrower if:

(1) Conveyance is in the Agency's financial interest;

The authorized agency official will complete Exhibit 37 showing the recovery value from the conveyance. The approval official will accept the conveyance offer if the borrower's application meets all FSA conditions and if acceptance is clearly in FSA's best financial interest.

C Prior and Junior Liens

[7 CFR 766.353(c)] (1) The Agency will pay prior liens to the extent consistent with the Agency's financial interest.

(2) Before conveyance, the borrower must pay or obtain releases of all junior liens, real estate taxes, judgments, and other assessments. If the borrower is unable to pay or obtain a release of the liens, the Agency may attempt to negotiate a settlement with the lienholder if it is in the Agency's financial interest.

The approval official will also use the information from Exhibit 37 to determine whether FSA will pay prior liens along with the conveyance. FSA may pay prior liens if the loan approval official expects a substantial recovery from the conveyance or if the lienholder objects to FSA accepting the conveyance subject to a prior lien.

The authorized agency official will charge any protective advances to pay prior liens to the borrower's account according to 4-FLP, Part 6.

If the borrower does not satisfy all junior liens, the loan approval official may contact junior lienholders to negotiate the most favorable settlement possible and determine whether it is in FSA's best interest to settle the lien.

499 Processing the Borrower's Conveyance Offer (Continued)**C Prior and Junior Liens (Continued)**

SED must approve all junior lien settlements.

The authorized agency official will charge any payments on junior liens to the borrower's account.

D Rejecting the Conveyance

If the approval official determines that FSA should not accept the conveyance, the authorized agency official will deny the conveyance, clearly stating the reasons for the rejection, offering appeal rights under 1-APP, and returning the original FSA-2569 and FSA-2570 to *--the borrower. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP. A copy of FSA-2569 and FSA-2570 will be retained in the--* case file.

E Accepting the Conveyance

If the approval official determines that FSA should accept the conveyance, FSA-2570 will be executed.

F Accepting the Conveyance and Rejecting the Debt Settlement Application

In cases where FSA accepts the conveyance offer and denies the debt settlement application, the authorized agency official will encourage the borrower to negotiate an acceptable debt *--settlement offer. See 7-FLP, subparagraph 408A for guidance on rejection letters.--*

The authorized agency official will advise the borrower that:

- after all debt settlement appeal rights have been concluded, and the conveyance has been completed, the borrower will be notified of any remaining account balance
- if the borrower does not pay the remaining account balance, any offset taken under 7-FLP (including IRS tax refunds, Federal salaries, Federal contractor/vendor payments, Federal benefit payments such as Social Security, and State income tax refunds for States participating in centralized offset through TOP) will continue
- the debt may also be referred to Treasury's cross-servicing program where Treasury may pursue collection by garnishing the borrower's wages. See 7-FLP, Parts 8 and 9. Treasury adds a collection fee for all monies it collects.

Negotiating an acceptable debt settlement with FSA should be strongly encouraged to avoid collection actions on the remaining balance and additional collection fees by Treasury.

500 Closing the Real Property Conveyance**A Recording the Deed**

The authorized agency official will forward the deed and release of lien to the closing agent with instructions for closing the conveyance, recording the deed, and releasing the lien provided no new liens have been recorded since the title search.

The closing agent will provide a certification of title to FSA after recording the deed. The title must have no other liens or encumbrances except for those previously approved by FSA.

B Junior or Unauthorized Liens

If the closing agent discovers junior or other unauthorized liens, the closing agent provides the authorized agency official with the lienholder's name, amount of lien, date recorded, and the recording information. The closing agent will return the unrecorded deed to the authorized agency official and await further instructions.

The authorized agency official will notify the borrower of the lien, inform them that they are responsible for resolving the situation, and establish a 30-calendar-day deadline for the resolution or the voluntary conveyance will be denied. The conveyance will not be closed unless the unauthorized liens are removed. In the meantime, FSA will proceed with required servicing actions with no delay.

C Charging the Borrower's Account

[7 CFR 766.353(d)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with a conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.

The authorized agency official will charge the borrower's account for all recoverable costs *--and expenses in connection with the conveyance according to 1-FLP, Exhibit 25. These--* costs may include taxes and assessments, other liens, closing agent fees, and any other authorized costs.

517 Personal Property Conveyance Application Requirements (Continued)**A Application (Continued)**

[7 CFR 766.354(a)] (6) Complete debt settlement application in accordance with part 761, subpart F of this chapter (7-FLP, Part 12) before or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the FLP debt.

The borrower must complete and submit FSA-2732 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security will fully satisfy the FSA debt.

The debt settlement application will be processed according to 7-FLP, Part 12. The applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

***--B Incomplete Applications**

Process incomplete applications according to paragraph 10.--*

518 Additional Requirements

A FSA Actions After Receiving Offer

[7 CFR 766.354(b)] The Agency will accept conveyance of chattel only if:

[7 CFR 766.354(b)] (1) The borrower has made every possible effort to sell the property voluntarily;

This includes consideration of the execution of FSA-2571.

[7 CFR 766.354(b)] (2) The borrower can convey the chattel free of other liens;

- The authorized agency official will conduct a lien search to verify that FSA is the only *--lienholder on the personal property.
- The authorized agency official conducts or obtains a personal property inspection and appraisal. The inspection and appraisal are required to account for all personal property--* security listed in the borrower's offer and to determine the market value of the property. The authorized agency official will conduct the appraisal according to 1-FLP, Part 6 as appropriate.
- The authorized agency official will determine the likely recovery value to FSA and whether the conveyance will satisfy the borrower's account. To calculate the recovery value, the authorized agency official will subtract all estimated expenses, including acquisition, preparation, and auction costs, from the appraised market value of FSA security.

The authorized agency official will document that approval of the voluntary conveyance is in FSA's best interest.

[7 CFR 766.354(b)] (4) The borrower conveys all chattel securing the Agency loan; and

- *--The authorized agency official will confirm that the conveyance offer includes all personal property securing FSA debts. If the borrower has real property securing an FSA loan that is--* not part of the conveyance offer, the authorized agency official must document that the borrower is liquidating this security by another method approved by FSA. All sales must be completed before the voluntary conveyance.

[7 CFR 766.354(b)] (5) The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

The authorized agency official will document that the borrower received the proper primary loan servicing notices according to paragraph 66.

519 Processing the Borrower's Conveyance Offer

A Preparing the Case File

The case file must contain the borrower's offer to convey, including all items in paragraph 517. In addition, the authorized agency official must include:

- a recommendation to the loan approval official about whether to accept the conveyance offer
- the authorized agency official's assessment and recommendation on the borrower's debt settlement application
- the authorized agency official will develop a complete credit action in FBP including a recommendation to the approval official on whether or not to accept or reject the conveyance offer.

The authorized agency official will include documentation of the results of the lien search, the personal property inspection, appraisal, and likely recovery value from Exhibit 37 in the FBP.

A memorandum will be included indicating that the borrower and the authorized agency official have reached a preliminary agreement on how, when, and where the borrower will
--deliver the personal property.--

B Forwarding the Case File

The authorized agency official will forward the completed case file to SED. SED may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized agency official should include a recommendation on acceptance of the offer.

C Evaluating the Offer

SED will accept conveyance of personal property only if:

[7 CFR 766.354(b)(3)] The conveyance is in the Agency's financial interest.

Conveyances of personal property will be approved only in extreme circumstances where no other option is possible.

519 Processing the Borrower's Conveyance Offer (Continued)**D Rejecting the Conveyance**

If SED determines that FSA should not accept the conveyance, SED or designee will:

- notify the borrower of FSA's denial in writing stating the reasons for the rejection and return FSA-2070 to the borrower

Note: As part of the written denial, the borrower will be given appeal rights according to *--1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--*

- send a copy of the rejection letter, FSA-2070, and the case file to the authorized agency official for continued account servicing.

The borrower may voluntarily liquidate security through other means.

FSA will not delay acceleration or involuntary liquidation action if SED rejects the conveyance.

E Accepting the Conveyance

If SED approves the offer, SED will return the case file to the authorized agency official with instructions for closing the conveyance. SED will include the following conditions in the approval:

- the authorized agency official must account for all personal property items listed in the conveyance offer
- the borrower must deliver the property according to an agreement reached between the borrower and the authorized agency official.

F Notifying the Borrower

The authorized agency official will notify the borrower of FSA's acceptance of the conveyance after all SED's conditions are met.

534 Accelerating a Borrower's Loans

A Approving Acceleration

DD will review the problem case file and if the account meets the acceleration criteria according to paragraphs 532 and 533, the account will be accelerated.

B Returning the File

If DD does not concur with acceleration or the file is not complete, the file will be returned to the authorized agency official with a request for additional information or instructions for additional servicing actions.

C Proceeding With Acceleration

[7 CFR 766.355(a)(2)] The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

DD accelerates all the borrower's loans and any shared appreciation agreements, unless the borrower meets either of the following conditions:

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration
- if the borrower is in military service, DD will confer with SED for review and instructions.

*--On an individual case-by-case basis for borrowers in bankruptcy, an exception under 7 CFR 766.401 and subparagraph 4 D allowing acceleration of individual loans under 766.355(a)(2) may be approved by SED upon confirmation of a plan when:

- borrower elects to surrender a portion of the collateral under a confirmed bankruptcy plan
- DD or FLC has obtained written guidance from OGC confirming acceleration of individual loans are appropriate based upon the confirmed plan
- borrower is not subject to the 2008 Farm Bill Acceleration Moratorium as provided in 7 CFR 766.358 (1-FLP, paragraph 41) and subparagraph 531 C.

Note: The SED exception authority may be further delegated to FLC or DD.

FSA should consult with OGC to consider objecting to any plan that surrenders less than all of the collateral securing an individual loan.--*

534 Accelerating a Borrower's Loans (Continued)**C Proceeding With Acceleration (Continued)**

***--Note:** When individual loans are accelerated under this exception, the agency may only liquidate the surrendered collateral. As a result, any references to “account” found in 7 CFR 766.351, 766.355(c), 766.355(e), or 766.357 apply only to the individual loans that have been accelerated when an Administrator’s exception has been applied under this subparagraph.

For partial liquidations of surrendered collateral see subparagraph 407 A.--*

D Mailing the Acceleration Notice

DD will send Exhibit 48, 49, 50, or 51, as appropriate according to State instructions, to the borrower by certified and regular mail on the same day. Exhibit 48, 49, 50, or 51 will be sent to the last known address of the entity and each obligor who signed any promissory notes. For American Indian borrowers whose real estate security is located within Federally recognized reservation boundaries, see subparagraph 537 C for letters when accelerating a loan and notifying the borrower’s Tribe.

DD will:

- send the authorized agency official a copy of Exhibit 48, 49, 50, or 51 sent to the borrower
- ensure that FSA-2562 is completed correctly
- submit FSA-2562 to the State Office to flag the account “ACL”.

Note: The ACL flag (Exhibit 11) will be removed when the account is paid in full, debt settled, or decelerated for any reason.

534 Accelerating a Borrower's Loans (Continued)**E Contacting Prior Lienholders**

After FSA accelerates the loans, the authorized agency official may contact any prior lienholders. In general, contacting prior lienholders may be most appropriate, although not required, in nonjudicial foreclosure States. In judicial foreclosure States, lienholders are contacted as part of the legal process. State supplements may be issued for additional guidance on the notification of prior lienholders.

FSA may:

- give the prior lienholder the opportunity to foreclose
- join in the action if the lienholder wants to foreclose
- foreclose and handle the prior liens by either:
 - settling the prior liens before foreclosing
 - foreclosing subject to the prior liens.

The authorized agency official will consult the State Office to seek guidance and recommend the option that results in the greatest net recovery to FSA.

535 Payments After Acceleration**A Time Limitations**

[7 CFR 766.355(b)] The borrower has 30 days from the date of the Agency acceleration notice to pay the Agency in full.

B Payment Methods

[7 CFR 766.355(c)] The borrower may:

--[7 CFR 766.355(c)(1)] Pay the account in full;--

Acceptable forms of payment and processing payments are described in 4-FLP, Part 5.

[7 CFR 766.355(c)(2)] Transfer the security to a third party in accordance with Part 765, subpart I (4-FLP, Part 9) of this chapter;

[7 CFR 766.355(c)(3)] Sell the security property in accordance with §766.352 (Part 13); or

[7 CFR 766.355(c)(4)] Voluntarily convey the security to the Agency in accordance with §§ 766.353 and 766.354 (Part 14), as appropriate.

C Partial Payments

[7 CFR 766.355(d)] The Agency may accept a payment that does not cover the unpaid balance of the accelerated loan if the borrower is in the process of selling security, unless acceptance of the payment would reverse the acceleration.

SED, in consultation with OGC, will issue a State supplement providing guidance on each State's policy and procedures for accepting partial payments.

D Borrower Files for Bankruptcy

If the borrower files for bankruptcy after FSA accelerates the account, FSA will suspend foreclosure and proceed according to Part 11.

536 Proceeding After Acceleration Deadlines**A Failure to Satisfy the Debt**

[7 CFR 766.355(e)] The Agency will liquidate the borrower's account in accordance with § 766.357 (Part 16) if the borrower does not pay the account in full within the time period specified in the acceleration notice.

B Forwarding the Case File

DD will forward the case file with all relevant information and documentation to SED.

C Account Information

In judicial foreclosure States, SED will request FSA-2560 be prepared by RDBCSO, FLB if required by the U.S. Attorney. RDBCSO, FLB will respond with FSA-2561. In nonjudicial foreclosure States, the account balance and recapture information may be obtained from Field Office files and RDBCSO ADPS systems.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation**A Acceleration of Loans to American Indian Borrowers**

[7 CFR 766.356] (a)(1) The Agency accelerates loans to American Indian borrowers whose real estate is located on an Indian reservation in accordance with this section, unless State law imposes separate restrictions on accelerations.

(2) The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

***--DD accelerates all the borrower's loans and any shared appreciation agreements, unless the borrower meets either of the following conditions:**

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration
- if the borrower is in military service, DD will confer with SED for review and instructions.

On an individual case-by-case basis for borrowers in bankruptcy, an exception under 7 CFR 766.401 and subparagraph 4 D allowing acceleration of individual loans under 766.356(a)(2) may be approved by SED upon confirmation of a plan when:

- borrower elects to surrender a portion of the collateral under a confirmed bankruptcy plan
- DD or FLC has obtained written guidance from OGC confirming acceleration of individual loans are appropriate based upon the confirmed plan--*

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

- *--borrower is not subject to the 2008 Farm Bill Acceleration Moratorium as provided in 7 CFR 766.358 (1-FLP paragraph 41) and subparagraph 531 C.

Note: SED's exception authority may be further delegated to FLC or DD.

FSA should consult with OGC to consider objecting to any plan that surrenders less than all of the collateral securing an individual loan.

Note: When individual loans are accelerated under this exception, the agency may only liquidate the surrendered collateral. As a result, any references to "account" found in 766.351, 766.356(b), 766.356(e), or 766.357 apply only to the individual loans that have been accelerated when an Administrator's exception has been applied under this subparagraph.

For partial liquidations of surrendered collateral under a confirmed plan in bankruptcy refer to subparagraph 407 A.--*

(3) All borrowers must receive prior notification in accordance with subpart C of this part (Part 3), except for borrowers who fail to graduate in accordance with § 766.101(a)(8) (subparagraph 66 A).

(4) At the time of acceleration, the Agency will notify the borrower and the Tribe that has jurisdiction over the Indian reservation of:

(i) The possible outcomes of a foreclosure sale and the potential impacts of those outcomes on rights established under paragraphs (a)(4)(ii) and (iii) of this section;

(ii) The priority for purchase of the property acquired by the Agency through voluntary conveyance or foreclosure;

(iii) Transfer of acquired property to the Secretary of the Interior if the priority of purchase of the property established under paragraph (a)(4)(ii) of this section is not exercised.

(b) The Agency will notify an American Indian borrower of the right to:

(1) Request the Tribe, having jurisdiction over the Indian reservation in which the real property is located, be assigned the loan;

(i) The Tribe will have 30 days after the Agency notification of such request to accept the assignment of the loan.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

(ii) The Tribe must pay the Agency the lesser of the outstanding Agency indebtedness secured by the real estate or the market value of the property.

(iii) The Tribe may pay the amount in a lump sum or according to the rates, terms and requirements established in part 770 of this chapter (6-FLP, Part 2, Section 3), subject to the following:

(A) The Tribe must execute the promissory note and loan documents within 90 days of receipt from the Agency;

--(B) Such loan may not be considered for debt write-down under 7 CFR part 770.--

(iv) The Tribe's failure to respond to the request for assignment of the loan or to finalize the assignment transaction within the time provided, shall be treated as the Tribe's denial of the request.

(2) Request the loan be assigned to the Secretary of the Interior. The Secretary of the Interior's failure to respond to the request for assignment of the loan or to finalize the assignment transaction, shall be treated as denial of the request;

(3) Voluntarily convey the real estate property to the Agency;

(i) The Agency will conduct a environmental review before accepting voluntary conveyance.

(ii) The Agency will credit the account with the greater of the market value of the real estate or the amount of the debt.

(4) Sell the real estate;

(i) The buyer must have the financial ability to buy the property.

(ii) The sale of the property must be completed within 90 calendar days of the Agency's notification.

(iii) The loan can be transferred and assumed by an eligible buyer.

Section 2 Real Property**566 Proceeding With Foreclosure After Acceleration****A Failure to Satisfy FSA**

If the borrower fails to pay the FSA debt in full before the acceleration deadline expires according to Part 15, FSA moves to involuntarily liquidate all of the borrower's FSA loan security.

B Conducting a Due Diligence Review

FSA must complete its due diligence process before taking real estate security into inventory via foreclosure or voluntary conveyance. The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review.

--Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.--

C National Historic Preservation Act

If the property may fall under the National Historic Preservation Act because of any of the criteria in 1-EQ, SED will note this in the State Office file on advice from the authorized agency official and DD to help eliminate any delays in selling the property after acquisition.

D Initiating Foreclosure

SED may forward the case file with all relevant information and documentation to OGC for required assistance in proceeding with foreclosure. If the borrower has leased the FSA real estate security, the authorized agency official must report the existence and conditions of the lease and report the name of the lessee to OGC.

SED may keep the borrower's file in the State Office. In this case, SED is responsible for initiating and processing the foreclosure process.

E Following State Law and Practices

SED, in consultation with OGC, will issue a State supplement providing guidance and instructions on processing a foreclosure. The authorized agency official, DD, SED, and OGC should maintain communication during the foreclosure process so all parties are aware of the status of the proceedings.

Note: No limitations period exists with respect to actions by government agencies to foreclose mortgages or deeds of trust per 28 U.S.C.A. § 2415(c). Accordingly, State limitations periods, and specifically those governing foreclosures, are not effective against the federal government. Regional OGC should be contacted for guidance on specific cases.

567 Foreclosure Sale**A “FAP” Flag**

--The account is flagged “FAP” using FSA-2562 by the State Office at the time the account-- is referred to OGC for foreclosure.

FAP flag (Exhibit 11) must be removed from the account if any of the following occur:

- foreclosure action is concluded on all available FSA security
- all FSA security is voluntary liquidated
- the account is paid in full
- any other action taken that result in foreclosure actions no longer being pursued on the account.

B Establishing a Judgment Account

In judicial foreclosure States only, SED establishes a judgment account after a judgment has been ordered by the court. To establish this account, the authorized agency official processes a 3B transaction in ADPS based on a completed FSA-2576.

Part 17 Liquidation by a Third Party**601 Introduction****A General Information**

Involuntary liquidation by a third party occurs when another lienholder, either prior or junior to FSA's lien, repossesses or initiates foreclosure proceedings against the borrower's FSA security. Foreclosure by another lienholder constitutes a non-monetary default of the borrower's security instruments with FSA. See:

- Part 3 for loan servicing actions when a borrower is in nonmonetary default
- 4-FLP, Part 6 for handling other third-party actions taken against a borrower.

SED, in consultation with OGC, will issue a State supplement, to provide detailed guidance related to a third party foreclosure.

B Recordkeeping

During involuntary liquidation by a third party, the authorized agency official must make entries into the FBP running record on the liquidation process and retain associated letters, forms, or other documentation in the borrower's case file. Maintaining a complete and accurate record of the foreclosure is essential to protect the interests of FSA and the borrower.

--County Offices must add the "TPF" flag (Exhibit 11) in DLS to indicate there is a-- foreclosure filed by a third party. The "TPF" flag will be removed when the foreclosure is no longer applicable.

The "TPF" flag is available from the Manage Flags section of Customer Management. This is a DLS only flag, meaning that it will not process a transaction to ADPS. The flag will only be visible in DLS. Refer to the DLS User Guide for instructions to add and remove the flag.

C Contract Forfeiture

Cases involving contract forfeiture (when FSA's lien is behind a land purchase contract) will be handled according to the State supplement.

D Conducting a Due Diligence Review

FSA must complete its due diligence process before taking real estate security into inventory via foreclosure or voluntary conveyance. The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review.

Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.

602 Involuntary Liquidation by a Prior Lienholder**A Prior Lienholder Initiates Liquidation**

If there is a prior lienholder on FSA security and the prior lienholder initiates liquidation, the authorized agency official will take the following actions unless otherwise instructed by State supplement.

- In a nonjudicial foreclosure State, the borrower's case file will remain in the authorized agency official's office. The authorized agency official should provide information on the liquidation to SED and consult with SED and OGC as needed.
- In a judicial foreclosure State, the authorized agency official will send the borrower's case file to SED. SED receives all foreclosure and legal notices and consults with OGC as needed.

B Compiling Information on the Borrower's Account

The authorized agency official will compile information on the borrower's account and include it in the borrower's case file according to subparagraph A. For real estate security, the authorized agency official will include:

- a report on the borrower's payment of real estate taxes
- a report with information on other lienholders and judgments associated with the FSA security.

--For personal property security, the authorized agency official will include:--

- a current appraisal obtained according to 1-FLP, Part 6 at the appropriate time
- a report with information on other lienholders and judgments associated with the FSA security.

FSA will obtain a current market value appraisal according to 1-FLP, Part 6 before the sale. If the Farm Loan Chief or Farm Loan Specialist determines and documents that a potential liquidation value appraisal will be beneficial in determining FSA's bid, the appraisal order may request a potential liquidation valuation in addition to the market valuation. A potential liquidation valuation may be beneficial when all the following conditions are met:

- the property is in an economically depressed area
- the property has significant functional obsolescence, deferred maintenance, or marginal land resources
- a normal marketing effort is not possible because of brief exposure time
- consummation of the sale will be within a short period of time as established by State Law.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists the forms referenced in this handbook.

| Number | Title | Display Reference | Reference |
|----------|---|-------------------|-----------------------|
| AD-1026 | Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification | | 81 |
| FSA-137 | Address Information Request | | 67, 386 |
| FSA-2001 | Request for Direct Loan Assistance | | 81, 83, 344 |
| FSA-2003 | Three-Year Production History | | 81 |
| FSA-2025 | Notice of Approval, Terms and Conditions and Borrower Responsibilities | | 346 |
| FSA-2026 | Promissory Note | | Text |
| FSA-2027 | Supplemental Payment Agreement | | 161 |
| FSA-2029 | Mortgage/Deed of Trust | | Text |
| FSA-2037 | Farm Business Plan Worksheet Balance Sheet | | 194 |
| FSA-2038 | Farm Business Plan Worksheet Projected/Actual Income and Expenses | | 194 |
| FSA-2040 | Agreement and Record of the Disposition of FSA Security/Release of Proceeds | | 464, 465, 581, 582 |
| FSA-2061 | Application for Partial Release or Consent | | 194, 462, 463 |
| FSA-2070 | Bill of Sale | | 516, 517, 519 |
| FSA-2071 | Transmittal of Documents | | 133, 146, 196, 284 |
| FSA-2080 | Release From Personal Liability | | 84 |
| FSA-2091 | Notice of Incomplete Application (Not for Loan Making, PLS, Transfer and Assumption, Subordination, and Debt Settlement Applications, or Operational and Graduation Reviews) | | 10 |
| FSA-2092 | Notice of Application Withdrawal (Not for Loan Making, PLS, Transfer and Assumption, Subordination, and Debt Settlement Applications, or Operational and Graduation Reviews) | | 10 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|----------|---|-------------------|-----------------------------|
| FSA-2132 | Real Estate Evaluation | | 129 |
| FSA-2489 | Assumption Agreement | | Text |
| FSA-2501 | Addendum to the Promissory Note or Assumption Agreement for Set-Aside Program | | 44-46, 48, 53-56, 58 |
| FSA-2503 | Addendum to the Promissory Note or Assumption Agreement Extending the Final Installment Due Date For Balloon Payments | | 129 |
| FSA-2510 | Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due | | 3, 67, 81, 83, 85, 401, 702 |
| FSA-2512 | Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due | | 3, 67, 68, 85, 102 |
| FSA-2514 | Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default | | 3, 67, 68, 83, 85, 444, 702 |
| FSA-2516 | 30 Day Reminder of the Notice of Availability of Loan Servicing | | 83 |
| FSA-2517 | Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 172 |
| FSA-2518 | Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 172 |
| FSA-2519 | Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116 |
| FSA-2520 | Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116 |
| FSA-2521 | Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 229, 322 |
| FSA-2522 | Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 229, 322 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|----------|--|-------------------|---------------|
| FSA-2523 | Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116, 229, 322 |
| FSA-2524 | Borrower Response to Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116, 229, 322 |
| FSA-2525 | Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing | | 85, 343, 344 |
| FSA-2526 | Borrower Response to and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing | | 85 |
| FSA-2529 | Negotiated Appraisal Agreement | | 230 |
| FSA-2535 | Conservation Contract | | Text |
| FSA-2537 | Notification of Consideration for Homestead Protection | | 281 |
| FSA-2538 | Response to Notification of Consideration for Homestead Protection for Borrowers Who Received FSA-2537 | | 281 |
| FSA-2539 | Homestead Protection Program Agreement | | 283, 284 |
| FSA-2540 | Notice of the Availability of Homestead Protection – Post Acquisition | | 281, 568 |
| FSA-2543 | Shared Appreciation Agreement | | Text |
| FSA-2544 | Shared Appreciation Agreement Recapture Appraisal Notice | | 343, 344 |
| FSA-2545 | Borrower Notification of Shared Appreciation | | 344 |
| FSA-2547 | Notice of Shared Appreciation Payment Agreement Delinquency | | 67 |
| FSA-2548 | 2 nd Notice of Shared Appreciation Payment Agreement Delinquency | | 67 |
| FSA-2550 | Report of Problem Case | | 421, 533 |
| FSA-2551 | Request for Non-monetary Default Determination | | 421 |
| FSA-2560 | Request for Statement of Account | | 536 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|----------|---|-------------------|-------------------------------------|
| FSA-2561 | Statement of Account | | 536 |
| FSA-2562 | Borrower Account Description Flag | | 67, 248, 401, 421, 534, 567, Ex. 11 |
| FSA-2569 | Warranty Deed | | 496-499 |
| FSA-2570 | Offer to Convey Security | | 284, 496, 497, 499, 500, 516, 517 |
| FSA-2571 | Agreement for Voluntary Liquidation of Personal Property | | 464, 465, 516, 518, 581 |
| FSA-2572 | Agreement of Secured Parties to Sale of Security Property | | 581 |
| FSA-2574 | Confirmation Reorganization Plan Worksheet | | 404, 406 |
| FSA-2576 | Notice of Judgment | | 551, 567, 568, 582, 604 |
| FSA-2580 | Primary Loan Servicing and Preacquisition Homestead Protection Checklist | | 67, 533 |
| FSA-2581 | Inequitable Treatment Review Data | | 533 |
| FSA-2585 | Acquisition or Abandonment of Secured Property | | 708, Ex. 66 |
| FSA-2587 | Advice of Property Acquired | | 568, 743 |
| FSA-2588 | Acquired Property Maintenance | | 568 |
| FSA-2591 | Lease of Real Property | | 281, 284, 568, 743 |
| FSA-2592 | Invitation, Bid and Acceptance Sale of Real Property by the United States | | 776, 778, 782 |
| FSA-2593 | Standard Sales Contract Sale of Real Property by the United States | | 778 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|-------------------------------|---|-------------------|-----------|
| FSA-2594 | Advice of Inventory Property Sold | | 778 |
| FSA-2595 | Quitclaim Deed | | 778 |
| FSA-2596 | Bill of Sale "A" (Sale of Government Property) | | 780 |
| FSA-2597 | Farmer Programs Noncash Credit for Purchase of Easement Rights | | 197 |
| FSA-2716 | Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement | | Ex. 48 |
| FSA-2717 | Notice Advising of Potential Referral to Treasury for Cross-Servicing | | Ex. 48 |
| FSA-2731 | Cancellation of Debt Without Application | | 406, 407 |
| FSA-2732 | Debt Settlement Application | | 82 |
| NRCS-CPA-026 NRCS-CPA-026e | Highly Erodible Land and Wetland Conservation Determination | | 81, 801 |
| SF-750 | Claims Collection Litigation Report (CCLR) | | 403 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

| Approved Abbreviation | Term | Reference |
|-----------------------|--|---------------------------------|
| ACL | Accelerated | 534, Ex. 11 |
| ADMP | Agency Debt Management Portal | Ex. 58 |
| BAP | Bankruptcy Action Pending | 42, 401, Ex. 11 |
| CAP | Court Action Pending | 421, Ex. 11 |
| CCLR | Claims Collection Litigation Report | 403, Ex. 58 |
| CL | Conservation Loan | 41, 131, 145, Ex. 2, 17 |
| CONACT | Consolidated Farm and Rural Development Act | 1, 193, 537, Ex. 2 |
| DBSA | Distressed Borrower Set-Aside | Text |
| DEF | Deferral | 248, Ex. 11 |
| eDALR\$ | electronic Debt and Loan Restructuring System | Text, Ex. 17 |
| FAP | Foreclosure Action Pending | 567, Ex. 11 |
| FLB | Farm Loan Branch | Text |
| FLMAC | Farm Land Market Advisory Committee | Ex. 17 |
| ISA | installment set-aside | 46, 48, 131 |
| ITLAP | Indian Tribal Land Acquisition Program | 2, 537 |
| LR | limited resource | 132, 146 |
| NP | nonprogram loan | Text |
| NRBRA | Net Recovery Buyout Recapture Agreement | 321, 361, 363, 365 |
| NRV | net recovery value | 102, 321, 462 |
| PACER | Public Access to Court Electronic Records | 403 |
| PACER | Public Access to Court Electronic Records | 403 |
| PLS | primary loan servicing | 67, 68, 401, Ex. 11 |
| POC | proof of claim | 401, 403 |
| PRB | Program Reports Branch | 708 |
| RDBCSO | Rural Development Business Center Service Office | Text, Ex. 11 |
| SA | shared appreciation loan | 66, 67, 102, 145, 146, 191, 346 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

| Approved Abbreviation | Term | Reference |
|-----------------------|---|--|
| SAA | shared appreciation agreement Note: When reference is made to a signed agreement as a condition of receiving debt write-down. | 67, 197, 249, 343, 344, 346, 403, Ex. 2, 4, 25, 26 |
| SAA | subject to approved adjustment Note: When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on FSA-2732. | 172, 249, 343, 404, 406, Ex. 11 |
| SCRRG | State Civil Rights Review Group | 533 |
| SEC | State Environmental Coordinator | 802, 821, 837, 839 |
| SI | Security Instrument | 344, 346 |
| SOL | Statute of Limitations | 533, Ex. 47 |
| ST | softwood timber loan | 41 |
| TOA | type of assistance | 131 |
| TPJ | third party judgment | 421, Ex. 11 |
| YL | youth loan | 41, 42, 68, 132 |

Redelegations of Authority

SED may redelegate to FLC authority to approve PLS where a borrower has received PLS at least 2 times in the previous 5 years or is receiving a second or subsequent consecutive restructure with a deferral.

SED may redelegate to FLC, FLS, and/or DD the authority to waive real estate and/or non-essential asset appraisals for current market value buyout when the personal property appraisal shows that personal property security value exceeds the debt, and security has been cross-collateralized.

--SED may redelegate to FLC or DD the authority to approve an exception to approve acceleration of an account in bankruptcy under subparagraphs 534 C and 537 A.--

Account Description Flag and Code Reference**A General Information**

This exhibit provides guidance on using account description flags and paragraph references for each flag.

B Agency Official Responsibilities

Agency officials shall review the RC 540 Report monthly to determine whether a servicing action is needed and if accounts are appropriately flagged or coded. Particular attention should be given to flagged accounts since the payment status cannot always be reported correctly for reasons such as payments being held in suspense or transactions not being processed.

C Establishing and Removing Flags

To establish an account flag, a * * * transaction will be processed in DLS through the Manage Flags function under Customer Management. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS. To remove an account flag, a * * * transaction will be processed in DLS. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.

***--Note:** See the DLS User Guide, Section 3.9 for guidance on establishing and removing flags related to this exhibit.--*

Account Description Flag and Code Reference (Continued)**D Flag Priority and Reference Table**

A maximum of 4 flags can be recorded in the accounting system for each borrower subject to certain limitations. However, only 3 flags will be reported on the RC 540 Report. Flags will be reported based on priority as indicated in this table.

| Display Priority | Flag | Description | Reference |
|-------------------------|-------------|--|----------------------------|
| 1 | OAC1 | Office of Adjudication and Compliance Accepted | 1-FLP, paragraph 41 |
| 2 | CAP | Court Action Pending | paragraph 421 |
| 3 | TPJ | Third Party Judgment (NFAOC Only) | paragraph 421 |
| 4 | BAP | Bankruptcy Action Pending | paragraph 401 |
| 5 | PLS | Primary Loan Servicing | paragraph 67 |
| 6 | DSA | Debt Set-Aside | Historical Code |
| 7 | DEF | Deferral (DLS Only) | paragraph 248 |
| 8 | FAP | Foreclosure Action Pending | paragraph 567 |
| 9 | SAA | Subject to Approved Adjustment (NFAOC Only) | *--7-FLP, paragraph 408--* |
| 10 | OAC7 | Office of Adjudication and Compliance Resolved | 1-FLP, paragraph 41 |
| 11 | ACL | Accelerated | paragraph 534 |
| 12 | OGC | OGC Determination (DLS Only) | 4-FLP, paragraph 16 |
| 13 | TPF | Third Party Foreclosure (DLS Only) | paragraph 601 |

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide

A Entering Data

Two categories of information are entered into eDALR\$. First, the authorized agency official enters some information into eDALR\$ on a periodic basis. This information is critical to ensure that eDALR\$ applies the correct interest rate to the borrower's account and that the net recovery value calculation is accurate. Each Field Office must have a system for promptly entering this information into eDALR\$ as the Field Office receives notification of data changes from the State or National Office. Second, the authorized agency official must enter borrower-specific data each time eDALR\$ runs a report. The key sources for this information are the borrower's current or updated FBP, ADPS DL, DLS FBP Loan Schedule, and DLS Total Payoff screens that contain borrower loan information, and the borrower's case file.

The eDALR\$ reports are accurate and useful only if the information entered into eDALR\$ is accurate and complete. A significant percentage of errors or complications with using eDALR\$ result from poor data collection or entry errors. The authorized agency official is responsible for the accuracy of inputted data and should be diligent in ensuring that the borrower's FBP is complete and appropriate. See 1-FLP, Part 8, Section 3 for a detailed discussion on developing FBP.

B Periodic Data

FSA periodically publishes updated data that the Field Office enters into eDALR\$. The State Office also issues State supplements with updated data based on Statewide or local conditions. When published, the authorized agency official enters net recovery constants.

--Current periodic data for administrative liquidation costs, personal property costs, real-- estate costs, and property management costs is found in paragraph 5 of this exhibit.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

C Borrower Data

The following table explains the main categories of borrower-specific information the authorized agency official enters into eDALR\$. The table lists specific items from the borrower case file and supporting automated FSA systems for entry into eDALR\$.

| Category | eDALR\$ Screen | Explanation |
|--|----------------------------|--|
| 1. Borrower Case Number | Enter or Select Borrower | Either an Entity or Individual Borrower Case Number. |
| 2. Borrower Name | Enter or Select Borrower | Either an Entity or Individual Borrower Name. |
| 3. Date Servicing Actions Requested | Basic Borrower Information | Date of completed application requesting primary loan servicing. |
| 4. Proposed Restructure Date | Basic Borrower Information | Date on which servicing actions should be effective. |
| 5. Has the Borrower Had Previous Debt Forgiveness? | Basic Borrower Information | Determine whether the borrower has received prior debt forgiveness, not including debt reduction from CC's or easements. |
| 6. Period of Deferral | Basic Borrower Information | eDALR\$ allows a maximum deferral period of 5 years. Enter a shorter period based on the plans developed in FBP. |
| 7. Adjusted Balance Available | Basic Borrower Information | System calculated from the data entered. |
| 8. Farm Operating Expense, Farm Operating Interest Expense, Owner Withdrawals Expense, Balance Available, Non Agency Debt Repayment and Taxes Expenses | Basic Borrower Information | <p>*--From FBP eDALR\$ Input Report, enter--*</p> <p>the corresponding information:</p> <ul style="list-style-type: none"> • Farm Operating Expense • Farm Operating Interest Expense • Owner Withdrawals Expense • Balance Available • Non-Agency Debt Repayment and Taxes. |
| 9. FSA Loan for Annual Operating Expense (AOE) | Basic Borrower Information | Enter the amount of any FSA loan for annual operating expenses for first year and after the deferral year. This is the amount of annual operating expense loan principal that FSA will advance in the applicable planning year. Also enter the estimated average number of months the annual operating loan will be outstanding. |

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

C Borrower Data (Continued)

| Category | eDALR\$ Screen | Explanation |
|------------------------|-----------------------|--|
| 10. New FSA Loans | New Loans | Enter the amount of any new loan, loan type, loan term, and year that the cash flow will be affected for the first year or after the deferral year. |
| 11. Existing Loan Data | Existing Loans | <p>Enter loan information obtained from the borrower's case file and the ADPS DL, DLS FBP Loan Schedule, and DLS Total Payment screens. The date of status screens must be after the date of the last payment or other transaction on the loan. The effective date of the status screens should be the proposed restructure date. The loan information includes consideration for:</p> <ul style="list-style-type: none"> • servicing actions <p>*--Note: "N" shall not be used as a servicing action unless it has been discussed with the State Office and there is a special circumstance that warrants not servicing the selected loan(s).--*</p> <ul style="list-style-type: none"> • loan type, program or Non-Program • unpaid principal and interest • the sum of the amount past due plus 1 annual installment • maximum term • original and existing interest rate • *--information regarding any portion of the loan for annual operating expenses not to be rescheduled • proposed payment in full on the restructure date • recoverable cost item information.--* |

***--Instructions for Using eDALR\$ (Continued)**

2 eDALR\$ User Guide (Continued)

C Borrower Data (Continued)

| Category | eDALR\$ Screen | Explanation |
|-----------------------------|-----------------------|--|
| 12. Net Recovery Value Data | Net Recovery Property | <p>Two types of data are required to calculate the net recovery value of property. First, the net recovery constants are periodically entered into eDALR\$. They specify costs that are determined State-wide or on a local basis and are specified in a State supplement as described in subparagraph B. Second, borrower-specific information primarily related to both essential and nonessential assets are necessary to calculate the net recovery value.</p> <p>The borrower-specific information the user must enter into eDALR\$ includes:</p> <ul style="list-style-type: none"> • market value of the security • prior liens • filing date of FSA and prior lienholder's security instruments • property taxes while in inventory • repairs necessary for resale • advertising cost • interest costs while in inventory • management costs per acre. <p>eDALR\$ computes the net recovery value for all FSA farm program loan security and nonessential assets. If FSA's lien position or the amount of prior liens varies from asset to asset, eDALR\$ computes separate net recovery values for each asset that has a different lien structure. The sum of all individual net recovery values equals the total net recovery value.</p> |

--*

Certificate of Indebtedness

The following is an example of a Certificate of Indebtedness.

| | | | | | |
|--|-------------------------|------------------|-----------------|----------------------|------------------------|
| FARM SERVICE AGENCY [ADDRESS] | | | | | |
| CERTIFICATE OF INDEBTEDNESS | | | | | |
| DEBTOR(S) NAME: _____ | | | | | |
| ADDRESS(ES): _____ | | | | | |
| Total debt due United States as of <u> (date) </u> : \$ <u> </u> | | | | | |
| I certify that Farm Service Agency (FSA) records show that the debtor(s) named above is/are indebted to the United States in the amount stated above. Interest accrues on the principal amount of this date at the rate of \$ <u> </u> per day. | | | | | |
| The claim arose in connection with loans made by the FSA. The account was accelerated on <u> (date) </u> . The debtor(s) was/were properly notified of all servicing rights consistent with FSA regulations before acceleration. | | | | | |
| Unpaid loan balances including authorized costs on the FSA loans are as follows as of <u> (date) </u> : | | | | | |
| Loan # and Code | Date of Note or Advance | Unpaid Principal | Unpaid Interest | Total Prin. and Int. | Daily Interest Accrual |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Totals | | | | | |
| The total unpaid debt as of <u> (date) </u> is \$ <u> </u> with a daily interest accrual thereafter of \$ <u> </u> . | | | | | |
| CERTIFICATION: Pursuant to 28 USC § 1746, I certify under penalty of perjury that the foregoing is true and correct. | | | | | |
| Date: _____ | | | | | |
| _____ (Name) | | | | | |
| _____ (Title) | | | | | |
| _____ Farm Service Agency | | | | | |

Judicial Foreclosure Best Practices

A Judicial Foreclosure States

The following table provides a list of judicial foreclosure States and whether or not they have a DOJ private counsel contract.

| State | DOJ Private Counsel Contract |
|----------------|-------------------------------------|
| Connecticut | No |
| Delaware | No |
| Florida | Yes |
| Illinois | No |
| Indiana | No |
| Iowa | Yes |
| Kansas | No |
| Kentucky | No |
| Louisiana | No |
| Maine | No |
| New Jersey | Yes |
| New Mexico | No |
| New York | Yes |
| North Dakota | No |
| Pennsylvania | Yes |
| Puerto Rico | Yes |
| Ohio | No |
| South Carolina | Yes |
| Wisconsin | No |

Note: Non-judicial foreclosure States may also have provisions for judicial foreclosure when a mortgage or deed of trust does not include a “power of sale” clause that gives the lender the right to foreclose on property itself. But judicial foreclosure in non-judicial foreclosure states is not the norm.

A DOJ private counsel contract is a contract issued and managed by DOJ replacing US Attorney’s Office foreclosure attorneys with private counsel.

Judicial Foreclosure Best Practices (Continued)

***--B Steps in Making a Judicial Foreclosure Referral**

FSA should proceed according to 5-FLP, Part 16 and any state supplement before making a judicial foreclosure referral.

A judicial foreclosure is a legal process that liquidates collateral through a judicial sale and provides marketable title to the successful bidder at the judicial sale. The foreclosure will extinguish the property interests or rights of borrowers and junior lienholders so that the buyer is able to obtain clean title. To be able to provide marketable title in the foreclosure sale, the foreclosure complaint must identify all interests that are to be extinguished at the foreclosure sale.

Note: Rights and interests that are not identified in the complaint will not be extinguished. Failure to extinguish interests will result in encumbrances remaining on the title, which could prevent a foreclosure sale from occurring, lessen any recoveries FSA may realize, or cause a court to set aside (undo) a sale.

Successfully conducting a foreclosure requires a good referral. Good referrals require taking the following steps:

Step 1. FSA must prepare and package all documents that affect the real estate or personal property to be foreclosed upon. These would include but are not limited to:

- all promissory notes that must include not just the initial loan, but promissory notes for all actions requiring a promissory note
- all assumption agreements
- all shared appreciation agreements
- all subordinations; subordination, non-disturbance, and attornment agreements (SNDA's); agreements with prior lienholders; and similar documents
- all FSA mortgages, deeds of trust, fixture filings, or other instruments or documents recorded or filed in the real property records
- information about any leases that FSA has approved
- documentation showing the outstanding principal, accrued interest, and daily interest accrual on each loan and advance
- all acceleration letters and servicing notices that led to the acceleration--*

Judicial Foreclosure Best Practices (Continued)

***--B Steps in Making a Judicial Foreclosure Referral (Continued)**

- if the foreclosure or legal action will include personal property, all security agreements, agreements for use of proceeds, UCC filings, and continuations
- if the foreclosure or legal action will include personal property, FSA-2360 Report of Lien Search
- confirmation whether any of the borrowers are deceased
- confirmation whether any of the borrowers are in bankruptcy or previously received a discharge in bankruptcy while an FSA borrower
- confirmation whether the property is occupied or vacant
- in States that have mandatory mediation requirements before foreclosure, confirmation that any mandatory mediation requirement has been completed
- other documentation or information as directed by regional OGC.

Note: When FSA has taken servicing actions such as rescheduling, consolidation, or reamortization, it may not be clear from looking at the original mortgage or deed of trust what promissory notes are secured by what mortgage or deed of trust. In these cases, FSA should prepare a description, chart, or outline that shows which notes or agreements are secured by each mortgage or deed of trust. Additionally, the documentation should clearly link any reschedulings, consolidations, re-amortizations, or other action requiring promissory note to the original note. The documentation should also show which note each advance was made for.

Step 2. Order a title report.

For foreclosures that include personal property, FSA should prepare FSA-2360.

The title report for real estate will show the owners of the property and any interests, rights, or encumbrances that attach to the real estate, including those that should be extinguished at the foreclosure sale. Generally, FSA will want to cause all of FSA's interests, all other liens, and the rights of all owners of the property to be extinguished at the foreclosure sale. FSA may also want to cause any lessee to be evicted after the foreclosure sale. Under State law, operator lessees can usually only be evicted after harvest. Not all interests can or should be extinguished though. For example, easements and rights-of-way usually are not extinguished.

A title report may alternatively be called a title opinion, foreclosure report, status report, title status report, litigation guarantee, or something similar. To be useful, the report that is obtained must show any and all interests, rights, or encumbrances in the real property, court, and fixture filing records. FSA should obtain the title report before making any referral.--*

Judicial Foreclosure Best Practices (Continued)

***--B Steps in Making a Judicial Foreclosure Referral (Continued)**

The title report must be recent so that it correctly identifies all interests. Given the period of time between the title report and foreclosure, a title report may also need to be updated before any foreclosure is initiated. FSA should work with regional OGC to determine the correct timing for ordering a title report and determining whether regional OGC requires a title report or will allow FSA-2360 Report of Lien Search to also be used for real property at this stage of the referral.

Note: FSA generally will not be able to extinguish outstanding property taxes and tax liens by judicial foreclosure. In addition, some State laws allow certain types of liens to survive a judicial foreclosure, even if those liens were recorded after FSA's lien. City liens, homeowners' association liens, and mechanic or construction liens are some examples. FSA may make advances to pay protective advances according to 4-FLP, Part 6 and the advances can also be part of the foreclosure. When protective advances are not made, the property may be sold at foreclosure subject to any outstanding taxes, tax liens, or other priority liens.

Step 3. Prepare a Certificate of Indebtedness (COI) (Exhibit 33).

FSA must prepare a COI to include when obtaining OGC concurrence and in any referral to DOJ.

Step 4. Obtain regional OGC concurrence before referring a foreclosure to DOJ.

Regional OGC should review the foreclosure and referral materials before FSA makes a referral to DOJ. State Offices should work with regional OGC to develop best practices including coordination between FSA and OGC for foreclosure referrals.

Step 5. Prepare a complaint.

A complaint is the legal filing that begins a foreclosure lawsuit. The complaint usually must contain information about certain items including:

- the names of all defendants whose interests in the real estate are to be extinguished that includes the title owners (usually including both spouses) and lienholders

Note: This may also include lessees when appropriate.

- each FSA mortgage, deed of trust, fixture filing, or other recorded instrument being foreclosed
- the identity of each FSA promissory note, assumption agreement, advance made, etc. and which mortgage, deed of trust, or fixture filing secures the debt--*

Judicial Foreclosure Best Practices (Continued)

*--B Steps in Making a Judicial Foreclosure Referral (Continued)

- the total and itemized amount of debt (principal, accrued interest, fees) on each account and the daily interest accrual as of the date of the COI
- a description of the order of payment for sale proceeds with any costs of the sale or foreclosure being first, followed by advances, accrued and accruing interest, and principal to FSA accounts in order of priority
- whether FSA will take a deficiency judgment and a request that the deficiency accrue interest at the judgment rate

Note: Deficiency judgments are generally sought based on the recommendation in 5-FLP, subparagraph 533 F unless the borrower has been discharged in bankruptcy or the complaint is brought out of time under the Statute of Limitations.

- a description of the junior interests of each defendant to be extinguished*
- a description of the owner's redemption rights, to the extent they exist
- redacted copies of the FSA documents to be filed with the complaint as exhibits
- other information that may be required by State law, DOJ, or regional OGC
- a request for relief including a foreclosure sale and distribution of sale proceeds, and as necessary, a deficiency judgment, authority to evict, or other requests that may be appropriate for the particular foreclosure as determined by regional OGC
- a notice of lis pendens, where applicable.**

* FSA generally cannot extinguish the rights of prior lienholders absent the prior lienholder's consent. When a prior lienholder is named as a defendant and consents to its lien being disturbed, it will receive proceeds of the foreclosure sale before FSA. If the prior lienholder is not named as a defendant or does not consent to its lien being disturbed, the sale is conducted subject to its lien. In those cases, the prior lien will continue on the property, even after the foreclosure sale.

**The name and function of a notice of lis pendens may vary by State. It is usually a separate document which may be filed in either the court or real estate records, depending on State law. It will generally put a cloud on the title which serves to deter third-parties from taking any interest in the real property (a sale of the property or lending and taking a consensual lien) while a lawsuit that may affect the title is pending. FSA should consult with regional OGC whether the use of lis pendens is appropriate.--*

Judicial Foreclosure Best Practices (Continued)

***--B Steps in Making a Judicial Foreclosure Referral (Continued)**

FSA should consult with regional OGC whether a draft complaint should be prepared, and if so, the best method for preparing the complaint.

Notes: In States where DOJ is not using private counsel, a draft complaint and notice of lis pendens may be prepared by regional OGC, FSA using templates provided by regional OGC, or by DOJ. If the draft complaint and notice of lis pendens is prepared by OGC or FSA, those documents and the exhibits should accompany the referral to DOJ.

In States where DOJ is using private counsel, private counsel will usually prepare the complaint.

Step 6. Pause any offsets.

All offsets must be paused before the referral is made to DOJ. Consult with regional OGC regarding whether offset should be paused when the earlier referral is made to OGC. After any pause, the State Offices may wish to consult with regional OGC to determine whether it can hold or offset any anticipated program payments.

Step 7. Refer foreclosure to DOJ.

After receiving concurrence from OGC, FSA may refer the foreclosure to DOJ. State Offices should work with regional OGC to determine whether the referral to DOJ should be made by FSA or OGC. State Offices should also consult with regional OGC to determine whether the referral should be made only through DOJ's Agency Debt Management Portal (ADMP) or through ADMP and directly to the United States Attorney's Office.

The referral packet should include:

- a Claims Collection Litigation Report (CCLR) completed in ADMP*
- a COI to be uploaded into ADMP
- a foreclosure complaint (if prepared by FSA or OGC)
- either all exhibits for the complaint or all documents prepared and packaged in Step 1
- a notice of lis pendens (as determined by regional OGC)
- a copy of the title report
- other documents as directed by regional OGC or DOJ.

* When the referral is for debt with a total principal balance of \$1,000,000 or greater, the CCLR will be completed as a PDF. See Exhibit 46 Subparagraph C for details.--*

Judicial Foreclosure Best Practices (Continued)

*--B Steps in Making a Judicial Foreclosure Referral (Continued)

C Use of DOJ's Agency Debt Management Portal (ADMP)

SED will consult with regional OGC regarding FSA use of DOJ's ADMP. ADMP may be used by FSA only with OGC consent. Contact LSPMD for guidance on obtaining access to ADMP.

DOJ requires the use of a Claims Collection Litigation Report (CCLR) and a COI when an agency is referring an account for foreclosure for claims that have a principal balance of below \$1,000,000. These forms are now submitted within ADMP. For debts with a principal balance of \$1,000,000 or greater, the referral, COI, and PDF CCLR must be submitted by e-mail to CCLR.Submission@usdoj.gov. To protect PII, all information must be [encrypted](#) before sending, using the instructions located at <https://www.justice.gov/jmd/file/789256/dl?inline>.

Current versions of the CCLR and instructions are found at DOJ's Justice Management Division Debt Collection Management Staff website located at <https://www.justice.gov/jmd/debt-collection-management-staff>

Note: ADMP and CCLR are also used for other types of referrals that are not used in foreclosures. FSA should not request a Collectability Assessment Inquiry when submitting a foreclosure referral. FSA must not request DOJ concurrence for compromise, suspension, or termination when making a foreclosure referral.

D FSA Use of Private Attorneys

In certain circumstances, FSA may determine it wishes to contract with private sector attorneys for foreclosures. The authority to hire private sector attorneys is not delegated to SED.

Any requests about the use of private sector attorneys must be directed to the FSA FLP National Office.--*

Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property

Note: Exhibit 60 is available in a fillable format at <https://intranet.fsa.usda.gov/dam/ffasforms/currentforms.asp>, in the “Forms Number” block type “5-FLP Exhibit 60” and CLICK “Submit”.

*--

5-FLP Exhibit 60
(Par. 567, 602, 604)

**WORKSHEET FOR DETERMINING FARM LOAN PROGRAMS
MAXIMUM BID ON REAL ESTATE PROPERTY**

(Present Owner/Borrower)

See data published according to Exhibit 17, subparagraph 2 B for guidance in estimating the incomes and expenses to be used in this exhibit. The holding period to be used is 165 days (.45 years) or less if it can be justified by the actual State average holding period. A longer period would be the redemption period plus 165 days (or less as noted above). State supplements will be issued as required and will address how income and expenses for the property will be calculated during the redemption period. If an individual property requires a longer holding period because of deed restrictions, legal issues, etc., an Administrator's Exception may be requested to use a different holding period.

NOTE: The STO will send Exhibit 60 to LMD at fpac-fsa-dlmfmb-funding@usda.gov as soon as the servicing office is aware of a potential bid to ensure adequate funds are available. Please use “Projected R Fund Appraisal Bid” as the subject of the email. Please include LSPMD at fsa-directloans@usda.gov as CC.

1. MARKET VALUE OF PROPERTY

Date of Appraisal _____

ESTIMATED HOLDING PERIOD IN YEARS

Statutory Holding Period 0.45 years + State Holding Period _____ years

\$ _____

0.45

2. INCOME

| | | | | | | |
|--|------------|---|------------------------|------|---|--|
| a. Annual Rent | | X | Holding Period (years) | 0.45 | = | |
| b. Annual Royalties | | X | Holding Period (years) | 0.45 | = | |
| c. Other Annual Income | | X | Holding Period (years) | 0.45 | = | |
| d. Annual % Land Appreciation (if applicable) | | | | | | |
| | \$ _____ - | X | Holding Period (years) | 0.45 | = | |
| e. Value gained due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc. | | | | | = | |
| f. Other (describe below) | | X | Holding Period (years) | 0.45 | = | |

TOTAL ADDITIONS (Items 2a thru 2f)

= \$ _____

Notes:

3. EXPENSES

a. Total Prior Lien holder Indebtedness (P and I)*

| | |
|-----------------|--------|
| Lienholder Name | Amount |
| | |
| | |
| | |

* If FSA is a junior lienholder on the property and the servicing office plans to bid at the foreclosure sale, the STO will send Exhibit 60 to LSPMD at fsa-directloans@usda.gov for review and concurrence. Please use “Junior Lien Exhibit 60 Review and Concurrence Request” as the subject of the email.

Page 1

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Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
(Continued)

*--

| | | | | | | | |
|--|---|-----------------|------------------------|--------|---|--|-------|
| | | | | | | 5-FLP Exhibit 60 (Par. 567, 602, 604) | |
| b. Other Acquisition Costs (taxes presently owed, closing costs, survey costs, administrative costs, junior liens, etc.) List: | | | | | | = _____ | |
| Description | | | | Amount | | | |
| DOJ collection fees (3% of MV if applicable) | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| c. Annual Taxes & Assessment | _____ | x | Holding Period (years) | 0.45 | = | _____ | |
| d. Annual Building Depreciation | _____ | x | Holding Period (years) | 0.45 | = | _____ | |
| e. Annual Management Costs | _____ | x | Holding Period (years) | 0.45 | = | _____ | |
| f. Total Essential Repairs to Secure and Resell | | | | | | = | _____ |
| g. Annual % Decrease in Land Value (if applicable) | <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> | | Holding Period (years) | 0.45 | = | _____ | |
| | \$ - | x | | | | | |
| h. Total Anticipated Resale Expenses (Commissions, Advertising, etc.) | | | | | | = | _____ |
| Description | | | | Amount | | | |
| Newspaper | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| i. Total Interest Cost | | | Holding Period (years) | 0.45 | = | _____ | |
| _____ | x | _____ | x | | | | |
| Market Value | | Regular OL Rate | | | | | |
| j. Value loss due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc. | | | | | | = | _____ |
| k. Hazardous Waste Clean-up Costs | | | | | | = | _____ |
| Description | | | | Amount | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| I. Total Deductions (Items 3a through 3k) | | | | | | = | _____ |
| Notes: | | | | | | | |

--*

Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
(Continued)

*--

5-FLP Exhibit 60
(Par. 567, 602, 604)

4. CALCULATION OF FSA'S NRV

a.

| | | | | | | |
|-----------------|---|--------------------|---|---------------------|---|-------------------------------|
| _____ | + | _____ | - | _____ | = | _____ |
| 1. Market Value | | 2. Total Additions | | 3. Total Deductions | | Net Recovery Value (NRV)** |

Notes:

****If NRV is ZERO or NEGATIVE: DO NOT BID. See paragraph 4 for Administrator exception requirements if FSA has minimal recovery.**

5. BID WILL BE THE LESSER OF a or b; (or if PLV is used, then LESSER OF a,b, or c):

| | | | | |
|-----------------|---|---------------------|---|-----------------|
| _____ | + | _____ | = | _____ |
| 1. Positive NRV | | 2. Prior Lienholder | | Maximum Bid "a" |

b.

| | | | | |
|--|---|---------------------|---|-----------------|
| _____ | + | _____ | = | _____ |
| 1. Unpaid FSA Balance on Secured Debt | | 2. Prior Lienholder | | Maximum Bid "b" |

c.

| | | |
|---|---|-----------------|
| _____ | = | _____ |
| 1. Potential Liquidation Value as determined by Appraisal*** | | Maximum Bid "c" |

*****Refer to subparagraph 567 C for additional guidance**

FSA'S MAXIMUM BID =

SIGNATURE(S):

AGENCY OFFICIAL:

STATE EXECUTIVE DIRECTOR:

 X

 X

Date

Date

Any Additional Notes or Comments:

Notice of Sale

Notes: Exhibit 70 is available in a fillable format at <http://intranet.fsa.usda.gov/dam/ffasforms/currentforms.asp>, in the “Forms Number” block type “5-FLP Exhibit 70” and CLICK “Submit”.

Exhibit 70 may only be revised by SED.

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency

NOTICE OF SALE

Notice is hereby given that the United States of America, acting through an agency of the U.S. Department of Agriculture (USDA) will sell by ☐ Public Auction ☐ Regular Sale ☐ Sealed Bid on FSA-2592 the following described ☐ Real ☐ Personal Property
☐ Real and Personal Property:

The property will be sold for cash unless otherwise indicated herein. For security property (title not in USDA) USDA reserves the right to bid at any public auction sale. For inventory property (title in USDA) USDA reserves the right to reject all bids. (Note: “***” preceding any property listed herein indicates that USDA will consider credit sales. Information concerning credit sales may be obtained from the USDA office listed below.)

The property may be examined at _____
The sale will be held _____

Inquiry concerning the sale of the above property may be made at the USDA Agency address shown below.

UNITED STATES OF AMERICA

By

(Date)

(Title)

(Telephone) (Office Address)

